

THE MADRAS LEGISLATIVE COUNCIL.

Thursday, the 16th February 1950.

The House met in the Council Chamber, Fort St. George, at eleven of the clock, Mr. Chairman (THE HON. SRI R. B. RAMA-KRISHNA RAJU) in the Chair.

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

I.—THE MADRAS VILLAGE PANCHAYAT BILL, 1949 (L.A. BILL No. 22 OF 1949)—cont.

MR. CHAIRMAN :—“ I think that the Hon. Minister will have to make a motion that the Bill be taken into consideration clause by clause.”

* THE HON. SRI K. CHANDRAMOULI :—“ We have not hitherto been moving like that.”

MR. CHAIRMAN :—“ Rule 3 (b) of the Council Rules says—

‘ On the prorogation of a session, all pending notices and business shall lapse except Bills which have been introduced. Such bills shall be carried over to the next session from the stage reached by them in the expiring session, provided that fresh notice shall be given for motions regarding the same. If the member in charge of a Bill makes no motion regarding the same during two complete sessions, the Bill shall lapse.’

Although the Bill will not lapse, I think there must be a motion that the Bill be taken into consideration clause by clause.”

JANAB K. UPPI :—“ Are we to make the agenda only now? ”

MR. CHAIRMAN :—“ The Hon. Minister has already given notice of the motion.”

JANAB K. UPPI :—“ He has given notice that the Bill be taken into consideration. That means first reading. The present motion should be that the Bill be taken into consideration clause by clause, which means second reading for which there is no notice.”

* THE HON. SRI K. CHANDRAMOULI :—“ In the notice, it has been put, ‘ Motion that the Bill as passed by the Assembly be taken into consideration (discussion continued). ’ ”

MR. CHAIRMAN :—“ It does not matter which motion it is. There must be a motion that the Bill be taken clause by clause.”

* THE HON. SRI K. CHANDRAMOULI :—“ Sir, I move—
‘ that the Madras Village Panchayat Bill, 1949 (L.A. Bill No. 22 of 1949), be taken into consideration clause by clause from the stage at which it was stopped at the last meeting of the house ’.”

MR. CHAIRMAN :—“ The question is—

‘ that the Madras Village Panchayat Bill, 1949 (L.A. Bill No. 22 of 1949), as passed by the Assembly be taken into consideration clause by clause ’.”

[Mr. Chairman] [16th February 1950]

The motion was carried.

MR. CHAIRMAN :—“ The Leader of the Opposition will be glad that the Minister himself has given notice of some amendments.”

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I move—

‘ that in the Madras Village Panchayats Bill, 1949, including the schedules thereto, for the word in the first column of the table below, substitute the word in the corresponding entry in the second column thereof :—

Table

(1)	(2)
<i>Province.</i>	<i>State.</i>
<i>Provincial.</i>	<i>State.</i>

MR. CHAIRMAN :—“ This amendment can be taken up later on. Let us now take clause 2.”

Clause 2.

* THE HON. SRI K. CHANDRAMOULI :—“ Sir, I move—

‘ that in clause 2, sub-clause (4) of the said Bill, after the words “ Act of Parliament ”, the words “ of the United Kingdom ” shall be inserted.’

“ The amendment has been necessitated consequent on the New Constitution of India which has come into existence on 26th January 1950. This is only a technical amendment and I request the House to accept it.”

MR. CHAIRMAN :—“ The question is—

‘ that in clause 2, sub-clause (4) of the said Bill, after the words “ Act of Parliament ”, the words “ of the United Kingdom ” shall be inserted.’ ”

The amendment was carried.

* DR. V. K. JOHN :—“ Sir, I move—

‘ that in clause 2, for sub-clause (16), substitute the following :—

“ ‘ Panchayat ’ means the Panchayat constituted under section 4 of this Act.” ’

“ Clause 4 says that a panchayat shall be constituted for each village with effect from a date specified in that behalf in the notification. So it is necessary to mention here that a Panchayat means one constituted under section 4 of this Act. Otherwise it might be taken to mean many things.”

MR. CHAIRMAN :—“ As it is, it means ‘ under this Act ’.”

* DR. V. K. JOHN :—“ My serious objections to the definition is this. If it is not constituted for the local administration of a village, the administration is carried on not by the panchayat, in which case it is the executive officer that runs the show.”

16th February 1950]

MR. CHAIRMAN :—" The sub-clause 4 (2) says that subject to the provisions of the Act, the administration of the village shall vest in the panchayat and only in certain cases power is given to the executive authority."

* DR. V. K. JOHN :—" The executive officer is appointed by the Government and the administration is carried on by him. He has independent powers. So, is it not better to say that 'panchayat' means a panchayat constituted under section 4 of the Act. It will be more appropriate and more accurate to use that definition. Clause 4 provides for the constitution of a panchayat and then that panchayat is referred to in various clauses that follow in this Bill. So, it is very much better and it will be more in consonance with the Act as well as with the usefulness of the English language if we use the definition suggested by me."

* THE HON. SRI K. CHANDRAMOULI :—" The Leader of the Opposition wants that the particular clause which provides for the constitution of a panchayat should be mentioned in sub-clause (16) of clause 2. If he had read the original clause he would have found that the existing definition was more comprehensive. So, I do not know why there should be a change now."

MR. CHAIRMAN :—" I would like to know how it is more comprehensive now. Does the Bill contemplate different kinds of panchayats for different purposes? I think the Government can accept the amendment. After all, the Bill has again to go to the other House."

* THE HON. SRI K. CHANDRAMOULI :—" I do not understand the difficulty of the Leader of the Opposition, and I do not know what is wrong with the existing clause. I find it more comprehensive now. I am sorry I cannot accept the amendment."

* DR. V. K. JOHN :—" I shall explain the position. Suppose the Hon. the Minister means there are two kinds of panchayats constituted under the Act, one for local administration and the other for something else. Then I can understand the definition which says 'a panchayat is a body constituted for the local administration of a village under this Act'. If that is not the intention of the Government, where is the harm in accepting my amendment?"

THE HON. SRI K. CHANDRAMOULI :—" I think there is nothing wrong with the existing clause."

DR. V. K. JOHN :—" Sir, you advised me the other day to give in an amendment and speak out my point of view. We have many democracies in the world. The Australian Government is criticized all over the world by many eminent jurists that it is a caucus, that no useful discussion is possible in the Parliament and that all decisions are made beforehand. Here I am not so much concerned with the proper use of the English language even as I am with the attitude of the Government."

[16th February 1950]

MR. CHAIRMAN :—"What the Bill says is that a panchayat means a body constituted for the local administration of a village under the Act. I think that is clear somewhat."

* DR. V. K. JOHN :—"I can understand it and I think you also can understand it as you are a lawyer. If a panchayat is constituted under this Act for some purpose other than for local administration and there is also another panchayat constituted specifically for the local administration of villages, there is meaning in retaining the present definition of a panchayat. Since, I take it, it cannot be the intention of the Government, I feel it should be made very clear that a panchayat means one that is made under section 4."

THE HON. SRI K. MADHAVA MENON :—"With due deference to the Leader of the Opposition, I may tell him that his amendment comes to this. He wants that the orders that the Government may issue should make it clear that the constitution of the panchayat to which the orders relate is made under section 4 of the Act."

MR. CHAIRMAN :—"May I draw the attention of the Hon. the Minister to the Local Boards Act under which panchayats are constituted at present where a similar wording is used? My only impression is that the Government will not lose anything by accepting the amendment."

THE HON. SRI K. MADHAVA MENON :—"This is entirely a matter of drafting, and nothing more than that. And I fail to see how Dr. John's amendment makes the position better and clearer than it is."

MR. CHAIRMAN :—"I am afraid we are spending a lot of time on this. I do not see any reason why the Government should not accept the amendment. There is nothing wrong in it. I can understand the Government's opposition if they are going to be affected in any way by it."

THE HON. SRI K. MADHAVA MENON :—"I do not think we will gain anything by accepting the amendment."

MR. CHAIRMAN :—"Dr. John's point is that the very purpose for which a panchayat is constituted is for the local administration of the village and that need not find a place in the definition of the word 'panchayat'."

* THE HON. SRI K. CHANDRAMOULI :—"Is it the intention of the Leader of the Opposition that because he wants a change in the wording we must accept it? I am very sorry I cannot accept the amendment. The Bill has been drafted by eminent lawyers and I may inform the House that it is not certainly my drafting. After all, there must be some purpose in doing a thing."

16th February 1950]

MR. CHAIRMAN :—" The question is—

' For clause 2, sub-clause (16), *substitute* the following :—

" ' Panchayat ' means the Panchayat constituted under section 4 of this Act '."

The amendment was lost.

THE HON. SRI K. CHANDRAMOULI :—" Sir, I move—

' For clause 2, sub-clause (23), *substitute* the following, namely :—

" (23) ' Scheduled Castes ' shall have the same meaning as in the Constitution '."

This amendment has been necessitated by the change in the Constitution of India and I request the House to accept it."

MR. CHAIRMAN :—" The motion is—

' For clause 2, sub-clause (23), *substitute* the following, namely :—

" (23) ' Scheduled Castes ' shall have the same meaning as in the Constitution '."

* SRI R. SURYANARAYANA RAO :—" Mr. Chairman, Sir, may I suggest two more words—' Of India '—by way of amendment to be added at the end of the amendment proposed by the Hon. the Minister for Local Administration. The Constitution refers to the Constitution of India and I want it should be made clear."

DR. V. K. JOHN :—" But they will not accept it."

* THE HON. SRI K. CHANDRAMOULI :—" Please do not say like that. If you convince me that a particular thing is good and necessary, I shall certainly accept it."

* DR. V. K. JOHN :—" Sir, Article 341 (1) of the Constitution says that certain castes will be treated as Scheduled Castes for ' purposes of this Constitution '. Article 366 also repeats the same . . ."

MR. CHAIRMAN :—" What does the Leader of the Opposition mean by referring to the Constitution in this connexion?"

* DR. V. K. JOHN :—" What I want to know is whether all the castes mentioned in the Government of India (Scheduled Castes) Order, 1936, have been incorporated in the relevant Articles of the Constitution. I want to know whether the Hon. the Minister has read the Constitution."

* THE HON. SRI K. CHANDRAMOULI :—" The Leader of the Opposition perhaps attempts to say that there is difference between the Government of India (Scheduled Castes) Order, 1936 and the present Constitution of India."

MR. CHAIRMAN :—" If the Leader of the Opposition finds any difference between the original clause and the existing one then it is all right. I would request him to enlighten me if there is any definition given in the Government of India (Scheduled Castes) Order, 1936 and in the Constitution of India. If there is any

[Mr. Chairman] [16th February 1950]

definition given, then I can understand the relevancy of Dr. John's point and that too if there is any difference between the two definitions."

* DR. V. K. JOHN :—" Sir, I want to impress upon the House that there is no definition given in the Constitution of India. Article 341 simply says—

'The President may, after consultation with the Governor or Rajpramukh of a State by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to Scheduled Castes in relation to that State.'

So, it does not specify who constitute the Scheduled Castes. My point is without knowing what it is, why should we drag in Article 341 of the Constitution here."

11-30 a.m. MR. CHAIRMAN :—" I suppose we must follow the Constitution. We cannot have a definition apart from the Constitution."

DR. V. K. JOHN :—" We can give a definition ourselves. We know what it is."

MR. CHAIRMAN :—" It all depends upon the definition given in the Constitution."

DR. V. K. JOHN :—" It is for that purpose that I want a definition."

MR. CHAIRMAN :—" Article 341 of the Constitution is referred to in the definition of Scheduled Castes. I suppose we must follow it."

DR. V. K. JOHN :—" I am not saying we should not. For the purpose of the Constitution it is better to define it. Simply an amendment is given without reading what the definition is."

* THE HON. SRI K. CHANDRAMOULI :—" He has given the amendment. The Member can read the definition in the Constitution himself."

DR. V. K. JOHN :—" Should he not read it and explain? "

THE HON. SRI K. CHANDRAMOULI :—" I have no objection to read it to the House."

MR. CHAIRMAN :—" I now put the amendment to the vote of the House."

SRI R. SURYANARAYANA RAO :—" May I know whether the words ' of India ' has been added."

MR. CHAIRMAN :—" Yes. The question is—

' For clause 2, sub-clause (23) of the said Bill, substitute the following :—

" (23) ' Scheduled-Castes ' shall have the same meaning as in the Constitution of India " ' "

The amendment as amended was carried.

Then clause 2 as amended was put and carried.

Clauses 3 and 4 were put and carried.

16th February 1950]

Clause 5.

* DR. V. K. JOHN :—" I move—

' that clause 5 be omitted.'

Sir, this clause is put in for the purpose of classification of panchayats. Clause 71 says—

' The Government shall set apart every year a sum not being less than twelve and a half per cent of the total land revenue (including water-cess) collected in the Province during that year and distribute such sum in the prescribed manner as grants to Class II panchayats on the basis of their population.'

" Now if we have no classification, it will be open to the Government to contribute according to the necessity. What I suggest is that Government should not put a ban. If you remove the clause which bind the Government to a particular course of action it would be very much more advantageous from the point of view of the Government and the public and the panchayat. Let the Government keep the power to assist the panchayats, contribute to them without being compelled to do so. Suppose there is a particular Class I panchayat which is willing to contribute for food production and it wants more money for that purpose. Then the Government can contribute to that panchayat also. Why then limit the powers of Government? After all nothing in law prevents Government from contributing to any panchayat."

THE HON. SRI K. MADHAVA MENON :—" We can contribute anything at any time to any panchayat."

MR. CHAIRMAN :—" They are bound to contribute to Class II panchayats. So far as Class I panchayats are concerned, it is open to Government to contribute. Is there any provision preventing Government from contributing to other panchayats?"

* DR. V. K. JOHN :—" What I am suggesting to the Government is, ' why bind yourselves?'. I have also got another amendment to the effect that the Government should find out the expenditure which they were incurring which the panchayats are now taking over. Say, if ten crores were spent, that must be given to the panchayat. What I am saying is, leave the contribution alone. Let the Government contribute from this fund, that fund or any other fund. We must look at the practical side of it. Why make it compulsory. They will be bound to pay even if they find the priority should be somewhere else, where money could be usefully spent. Let the Government reserve the powers without being bound by legislation and contribute what is fair and just and necessary according to priority which might change from time to time."

" Suppose the estimated annual income of a Class I panchayat is Rs. 10,000. It will not be eligible for any grant. When it is Rs. 9,000 it will be eligible for a grant from the Government."

[Dr. V. K. John] [16th February 1950]

Suppose I am in charge of a panchayat the estimated income of which is just over Rs. 10,000. I might actually get about 11,000. I will try to keep it below Rs. 10,000 so that I can get a contribution. You are putting a premium on the estimated income. I do not know if Government ever thought of it. I would not characterise this as thoughtless. This is a very elaborate Bill. Government might not have looked at the *pros* and *cons* of it. So I suggest that it would be very much better not to have this classification but the Government can do anything without the classification."

MR. CHAIRMAN :—" The idea of the Government is that the panchayats whose estimated revenue is less than Rs. 10,000 deserved help and the Government is prepared to help them. So far as the others getting over Rs. 10,000 nothing prevents Government in going to their help even as in the case of District Boards, Municipalities, Corporation, etc. So if any panchayat getting more than Rs. 10,000 asks for the help of Government there is nothing to prevent the Government from giving it."

* DR. V. K. JOHN :—" I am obliged for your reading the mind of the Government. My point is this. The Government say : ' If your estimated income is less than Rs. 10,000 you are entitled to get a share of the revenue '. But in practice you know how these Corporation, Municipalities and District Boards are treated. The Government say we have no money and so we cannot contribute. The Government are unlikely to contribute to these panchayats unless probably they can get the money. I can understand Government having the provision that they will contribute to every panchayat for the services taken over from the Government. If that was the idea, it would have been different. But now you are paying a premium on keeping down the estimated income. That is a very wrong thing."

JANAB ABDUL LATIF FAROOKHI :—" I second the amendment."

* THE HON. SRI K. CHANDRAMOULI :—" The idea of the Government in ear-marking this fund for the second-class panchayats is that in most districts the panchayats are in dry taluks. Under this Act we have to constitute to several panchayats. So the smaller panchayats should be given some minimum financial resources to carry on ordinary administration and carry on ordinary things and give other ordinary amenities. That is why Government wanted to allot specific amounts to these panchayats but it does not bar Government from giving more grants, to the other panchayats and other grants. All these things are there. This amount is given to the already neglected and backward districts. With that view only the Government wanted to give this minimum aid. The Government can give more. They can give priority and other things. Panchayats getting more than

16th February 1950] [Sri K. Chandramouli]

Rs. 10,000 may carry on their ordinary purposes without other aids and other grants. This is the idea of the Government. There is nothing wrong in specifying the amount."

MR. CHAIRMAN :—" Dr. John's point was that if you put a limit of Rs. 10,000 there would be no incentive for the panchayat to increase its resources. They won't have taxes. They will keep it below Rs. 10,000 and take your grants."

* THE HON. SRI K. CHANDRAMOULI :—" I will come to that point, Sir. Dr. John wants that the panchayats should have optional taxation. The Government have put in compulsory taxation. Elsewhere, Dr. John has given an amendment that the taxation should not be compulsory, they might be left to the option of the panchayats. We have to ear-mark this in the interest of the small panchayats and neglected and backward areas like Rayalaseema and other districts. That is the idea."

* DR. V. K. JOHN :—" The Hon. Minister says there is compulsory taxation and therefore the estimated income must be there and cannot change. If he kindly reads the finance and taxation chapters, there is compulsion in respect of house tax, etc. There are some other taxes in respect of which there is no compulsion, and which they may collect or may not collect."

THE HON. SRI K. MADHAVA MENON :—" Dr. John's amendment is to omit clause 5 altogether. There is another clause, clause 9 which deals with the division of the panchayat into wards and the number of members to be returned by each ward. It says that a class I panchayat shall be divided into not less than five wards and a Class II panchayat village shall be divided, if it has a population of 1,000 or less, into two wards and if it has a population of more than 1,000 into not more than five wards. Chapter IV containing clauses 63 onwards deals with the taxation and finance of the panchayats. Smaller panchayats are given the same taxation powers as the bigger panchayats. Clause 70 relates to the panchayat funds. Obviously the funds of the smaller panchayats will be less than those of the bigger panchayats. The bigger panchayats have a certain income guaranteed to them. In the case of the smaller panchayats that income cannot be guaranteed to them from their sources of taxation. Therefore they are given a guaranteed income of 12½ per cent of the land revenue. This is not necessary in the case of the bigger panchayats. It does not prevent the Government from giving more to the smaller panchayats or from giving grants to the bigger panchayats. These classifications are necessary in order to divide the panchayats into wards according to their size. Dr. John's idea is that the Government should give more. But his amendment to omit the clause will raise difficulties in the distribution of the wards besides the question of income."

11-45
a.m.

[16th February 1950]

MR. CHAIRMAN :—" The question is—

' that clause 5 be omitted.' "

The amendment was put and lost.

Clause 5 was put and carried.

Clause 6.

SRI B. NARAYANASWAMI NAYUDU :—" Sir, my amendment is for sub-clause (2) and not sub-clause (1). I move—

*' that the following be added at the end of sub-clause (2) of clause 6 :—**" if moved thereto by a two-thirds majority of the members. " "*

" Sub-clause (1) says that the total number of members of a panchayat shall be notified by the Inspector and sub-clause (2) says that the Inspector may from time to time by notification alter the total number of members of a panchayat notified under sub-section (1) . . . "

THE HON. SRI K. CHANDRAMOULI :—" Suppose the population increases or decreases."

SRI B. NARAYANASWAMI NAYUDU :—" It is not so innocent as the Hon. Minister says. This will give room for the manipulation of panchayats. The heading of this chapter is put as ' Constitution, Government and Control of Panchayats '. I would add also ' Manipulation of panchayats '. Our experience of local boards in this matter has been ample and varied. Nobody can pretend to say that there is no manipulation at all . . . "

THE HON. SRI K. CHANDRAMOULI :—" So far there is no manipulation."

SRI B. NARAYANASWAMI NAYUDU :—" Panchayats may be brought into existence, but their success will depend on the intrigues and other things which will come into play in the functioning of the panchayats. Sub-clause (2) says that the Inspector may from time to time by notification alter the total number of members of a panchayat as he pleases. Is it to be done at the behest of the party or the Minister or any other person responsible for it? The whole procedure of constitution of the panchayats is to be in the hands of the Inspector. He can fix the total number of members and divide a panchayat into 2 or 3 or 5 wards. Why is there no reference to population so far as sub-clause (2) is concerned? This clause will bring into operation certain forces which will certainly be applied for manipulation purposes. That is why I have suggested that it should be done only with the concurrence of a two-third majority of the members. My amendment is wrongly put under sub-clause (1). It should come under sub-clause (2)."

MR. CHAIRMAN :—" Who has put it wrongly? "

16th February 1950]

SRI B. NARAYANASWAMI NAYUDU :—“ Let me see my original notice. Anyhow, it does not matter, since I know the fate of my amendment.”

MR. CHAIRMAN :—“ The hon. Member may take it on to sub-clause (2).”

SRI B. NARAYANASWAMI NAYUDU :—“ Sir, even with regard to Madras, we see that an agitation is going on. Some people want their borders up to Tirupathi and some want it up to Cape Comorin and so on. I see the Hon. Minister is laughing. But the thing is not so innocent as he imagines. You have seen now many firkas have been divided and sub-divided even after 1937. I do not say it is done maliciously. But this power will lead to the enactment of a *Keelu Bommalu Natakam*. The Inspector will be made the cat's paw of party politics.”

MR. CHAIRMAN :—“ *Keelu Bommalu Natakam* is very much appreciated in the villages! ”

SRI B. NARAYANASWAMI NAYUDU :—“ That is with regard to Bagavatham or Bharatham. I do not want this village panchayat natakam there.”

* SRI R. SURYANARAYANA RAO :—“ Sir, if it is the object of the Government that the Inspector should increase or decrease the number only with reference to the population, why not the Government say that the Inspector may from time to time by notification alter the total number of members of a panchayat notified under sub-section (1), *with reference to the population*? Otherwise it is just possible that the Inspector may for no reason at all reduce or increase the number of members. If, as the Hon. Minister said, and I am sure it is his intention, the Inspector should interfere only if the population increases or decreases, why not make it clear and remove the suspicions which my hon. Friend Mr. Narayanaswami Nayudu expressed? If it is not wrong from a drafting point of view, why not add ‘with reference to the population’ at the end, showing thereby that unless there is increase or decrease of population he cannot alter the number. That will prevent the Inspector from using his discretion arbitrarily as he is to be guided by the increase or decrease in population.”

* THE HON. SRI K. CHANDRAMOULI :—“ Sir, in clause 6 (1) it has been made quite clear that the Inspector will determine the number according to the population. The minimum and the maximum for each panchayat has been given. Supposing there is a change in the population, then only sub-clause (2) comes in. The sub-clause is quite clear, unless we read everything with suspicious motives and intentions. There are specific rules for the guidance of the Inspector. I may assure the hon. Member Mr. Narayanaswami Nayudu that for the last three or four years no Inspector has changed these things arbitrarily or according to his whims and fancies. It has never been done as regards fixing the

[Sri K. Chandramouli] [16th February 1950]

number of members is concerned. The matter is quite clear. There is no necessity for the amendment and I am sorry I cannot accept the amendment."

MR. CHAIRMAN :—" The Government's point of view is that sub-clause (1) controls sub-clause (2)."

THE HON. SRI K. CHANDRAMOULI :—" Yes, Sir, it controls sub-clause (2)."

SRI R. SURYANARAYANA RAO :—" I do not think it controls that, Sir."

THE HON. SRI K. CHANDRAMOULI :—" There are also rules, Sir."

MR. CHAIRMAN :—" Sub-clause (1) says that the number shall be fixed with reference to the population. Sub-clause (2) says that the number may be altered. It can only be changed in conformity with the population."

SRI B. NARAYANASWAMI NAYUDU :—" That contention may not hold good in a court of law."

SRI R. SURYANARAYANA RAO :—" Sub-clause (3) fixes the maximum and minimum. If it is not with reference to the population, it may be increased or decreased by one, two or three members. That means there is a discretion vested in the Inspector which he can use as he likes. That is clear from sub-clause (3)."

MR. CHAIRMAN :—" I am afraid I will have to ask hon. Members to adhere to the rules of debate. I cannot allow an hon. Member to speak more than once on this point. The question is—

' that the following be added at the end of clause 6, sub-clause (2) :—

" if moved thereto by a two-thirds majority of the members " " "

The amendment was put and lost.

Clause 6 was put and carried.

Clauses 7 and 8 were separately put and carried.

12
noon.

Clause 9.

SRI B. NARAYANASWAMI NAYUDU :—" Sir, I move—

' that the following proviso be added at the end of clause 9 (1) :—

" Provided that if a two-thirds majority of the members of the panchayat veto the division of the village into wards, the notification shall not come into effect." "

" There will certainly be manipulation if the Inspector is allowed to divide the village into wards. The Government may

16th February 1950] [Sri B. Narayanaswami Nayudu]

say that they have provided for the maxima and minima. But that will not be sufficient. They can have further manipulation in the matter of division of wards. If a man is put in a particular street and if it is thought that he will be elected, suddenly he may be put in some other street and he may be defeated. So there will be a temptation to use this provision of the Act in elections. Therefore I say that the division of wards and also the redistribution of the wards should be controlled. These are fundamental points of the Constitution. It cannot be done in any manner they please. If a Minister divides the wards, however rough-shod he may be, he will be answerable to the House. We can point out the mistakes to him. Public opinion can control the Ministers. But the power is vested with the Inspector of Municipal Councils who is not open to public opinion and who is not open to criticism in this Council for any alteration that he might have made in a village. It is a very nice thing to say that everything will be done only according to population. Is the population going on changing every year in such a way as to alter the distribution of the wards? Why then the Inspector is given power? Is it really for manipulation or for safeguarding the rights of the villagers? I think the population is going to be fixed now. The Inspector will alter the wards in 1950 and again he will alter the wards in 1951 also. Thus he can go on changing the wards at any time."

MR. CHAIRMAN :—" I don't think that he can do that at any time."

SRI B. NARAYANASWAMI NAYUDU :—" Clause 9 says that 'for the purpose of electing members to a panchayat, the Inspector shall, after consulting the panchayat, by notification divide the village into wards' It is not so easy. There is no guarantee that he will not change the wards later on. If they say that nothing further will be done, I would withdraw my amendment. Let the Hon. Minister say that. I am sure he cannot and he would not say that. Therefore to check any possible manipulation, my amendment is necessary."

Dr. V. K. John seconded the amendment.

* THE HON. SRI K. CHANDRAMOULI :—" Sir, the intention of dividing the village into wards is to see that one party does not dominate, exclusively. Mr. Narayanaswami Nayudu's fear is that every time the Inspector may go on changing the wards according to his whims and fancies. There is a clause that he will do it in consultation with the panchayat. My friend forgets that and ignores that: It does not, however, matter. Supposing there is a small village which we have to divide into wards. Afterwards there may be extension or some more new houses might have been constructed in that village or some such thing happens. Or it might also be that in one particular portion of the village there may be more voters, or some voters might have changed from one portion to another. In such cases what is it that we have to do? In that case, are we not to change the wards

[Sri K. Chandramouli] [16th February 1950]

in all fairness? That is the idea which is implied here. So it has been provided that he will do it in consultation with the panchayat. So there is nothing wrong about it. In the circumstances, I cannot accept my hon. Friend's amendment."

The amendment was put and lost.

Clauses 9 and 10 were separately put and carried.

Clause 11.

* JANAB ABDUL LATIF FAROOKHI :—" Sir, I move—

' that sub-clause (2) of clause 11 be deleted.'

" Sub-clause (2) says—

' If at such fresh election also, no person is elected to fill the vacancy or any of the vacancies, as the case may be, the panchayat may, in the manner prescribed, elect a qualified person to fill such vacancy '.

" Sub-clause (1) says—

' If at an ordinary or casual election, no person is elected to fill the vacancy or one or more of the vacancies as the case may be, a fresh election shall be held on such day as the Inspector may fix '.

" Then sub-clause (2) says that—

' If at such fresh election also no person is elected to fill the vacancy, the panchayat may elect a person, etc. '.

I do not understand why this power should be given to the panchayat. Do they expect that there will be non-co-operation in elections. If at the first time a person did not stand, then by notification another election can be held. We do not give such powers to the Legislative Assembly or the Council to elect members when nobody was elected. Therefore I do not understand why the panchayats should be given this power. With these words, I commend my amendment for acceptance."

SRI R. SURYANARAYANA RAO :—" I second the amendment."

* THE HON. SRI K. CHANDRAMOULI :—" Sir, as suggested by the hon. Member, this is not an extraordinary power. In the first place, it happens many a time when elections are conducted, one is not elected for some reason or other, in a particular ward. Then we do not want to keep that ward vacant for eternity. If after three or four attempts no one is elected, then only this provision is intended to be used. This is not a new provision. In the Madras Local Boards Act, we have such a provision. This is intended to be used only in extraordinary cases as it is not desirable to keep any particular ward vacant for eternity. In such cases, the panchayat should be given power to elect a member. So I would only request the hon. Member to withdraw his amendment."

The amendment was put and lost.

Clause 11 was put and carried.

16th February 1950]

Clause 12.

* JANAB ABDUL LATIF FAROOKHI :—“ Sir, I move—
‘ that in line 3 of sub-clause (1) after the word “ prepared ”
insert the word “ printed ”.’

“ I have got a particular experience with regard to this in the last District Board elections. I happened to purchase the electoral roll. The electoral rolls were not printed. Some pages were printed, some pages were written in hand and some were typed. Of course I do not want to narrate that experience in detail here. But it is a fact that one gentleman who wanted to stand for the district board election, and who has now been elected, did not find his name on the electoral rolls in the first instance. When this was noticed, at the last moment, his name was written by hand, he stood for election and was returned unopposed to the District Board. As a matter of fact he was not a voter in the first instance and his name was subsequently inserted. Therefore, if the electoral roll was printed, no such difficulty will arise. Therefore I say that it should be printed. This is a very simple amendment and I would request the Government to accept the amendment.”

* THE HON. SRI K. CHANDRAMOULI :—“ After the electoral rolls are prepared, it will be published in the Gazette. That list will be the only final one and nobody can manipulate it, as the hon. Member thinks. But ordinarily in some bye-elections or some other cases, the lists could not be printed for want of time as that would cost a great deal.”

JANAB ABDUL LATIF FAROOKHI :—“ I was referring to a main election.”

* THE HON. SRI K. CHANDRAMOULI :—“ If the list was printed and published in the Gazette, I do not know how anybody could tamper with it. The case referred to by my Friend will be resorted to only in an emergency.”

* JANAB ABDUL LATIF FAROOKHI :—“ I want an assurance from the Government that anything hanging in some place in a notice board or some such thing should not be taken to be the final electoral roll. My point is, there should be proper publication and no room for any manipulation or tampering.”

The amendment was put and lost.

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I move—
‘ that in clause 12, sub-clause (2),—

- (i) the words “ or special ” wherever they occur be omitted;
- (ii) for Explanation II, the following be substituted :—

“ Explanation II.—In this sub-section the expression ‘ territorial constituency ’ shall have the same meaning as in the law made under Article 327 or, as the case may be, under Article 328 of the Constitution of India ”.’

[16th February 1950]

MR. CHAIRMAN :—“ The question is—

‘ (i) the words “ or special ” wherever they occur be omitted;

(ii) for Explanation II, the following be substituted :—

“ *Explanation II.*—In this sub-section the expression ‘ territorial constituency ’ shall have the same meaning as in the law made under Article 327 or, as the case may be, under Article-328 of the Constitution of India ”. ”

The amendments were carried.

Clause 12 as amended was put and carried.

Clause 13 was put and carried.

Clause 14.

* JANAB ABDUL LATIF FAROOKHI :—“ Sir, I move—

‘ *that in line 3, clause 14 (2), for the words “ shall be referred to the Government ” the words “ shall be referred to the District Judge of the district in which the panchayat is situated ” be substituted.*

I feel that it will be easier to make reference to the District Judge than to the Government.”

DR. V. K. JOHN :—“ I second it.”

* THE HON. SRI K. CHANDRAMOULI :—“ Sir, this provision relates to the servants of the Government and I do not know why reference should be made to the District Judge. It is not for disqualifying any member who stands for election. This covers only Government servants and hence I cannot accept the amendment.”

The amendment was put and lost.

Clause 14 was put and carried.

Clauses 15, 16 and 17 were put and carried.

Clause 18.

JANAB ABDUL LATIF FAROOKHI :—“ Sir, I move—

‘ *that in the proviso to sub-clause (2), for the word “ twice ” the word “ once ” be substituted.*

I think there is no need to give two chances to a member.”

DR. V. K. JOHN :—“ I second it.”

THE HON. SRI K. CHANDRAMOULI :—“ There is nothing wrong in allowing two chances to a member.”

MR. CHAIRMAN :—“ I think the district boards allow three chances.”

16th February 1950]

JANAB ABDUL LATIF FAROOKHI:—" In that case, I withdraw the amendment."

The amendment was by leave of the House withdrawn.

Clause 18 was put and carried.

Clauses 19 and 20 were put and carried.

Clause 21.

JANAB ABDUL LATIF FAROOKHI:—" Sir, I move—

' that at the end of sub-clause (7) the words " and shall also have a casting vote " be added.'

Sir, situations may arise when there may be a tie between the persons who hold one point of view and those who hold the opposite view point. In that case, if the chairman or the president of the panchayat has a casting vote, that will decide the issue. I think in municipalities, the chairmen have a casting vote besides the ones they possess as members."

DR. V. K. JOHN:—" I second it."

* THE HON. SRI K. CHANDRAMOULI:—" There is certainly a casting vote for the president or the chairman of the panchayat and it will be provided under the rules. Everywhere, it is the same thing."

JANAB ABDUL LATIF FAROOKHI:—" I do not know whether you have a casting vote, Sir."

MR. CHAIRMAN:—" The new Constitution provides for a casting vote only for the Speaker and the Chairman . . . I want to know whether the hon. Member presses his amendment."

JANAB ABDUL LATIF FAROOKHI:—" No, Sir."

The amendment was, by leave of the House, withdrawn.

Clause 21 was put and carried.

Clauses 22, 23, 24, 25, 26 and 27 were separately put and carried.

Clause 28.

DR. V. K. JOHN:—" Sir, I move—

' that for sub-clause (1) the following be substituted:—

" The panchayat may appoint a whole-time executive officer ", or

" A full-time executive officer may be appointed by the Government on the recommendation of the Public Service Commission and the panchayat concerned."

Now, this is a very important matter and I want to stress it. Under clause 28 of the Bill, a whole-time executive officer can be appointed by the Government for any panchayat and if that officer is in the service of the Government contribution towards his

[Dr. V. K. John] [16th February 1950]

leave allowances, pension and provident fund should be made by it. This amounts to the entire power vesting in the Government. Article 40 of the Constitution says—

‘The State shall take steps to organize village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-Government.’

According to this, you must have panchayats, you must give them powers and you must give them every authority to enable them to function as self-governing units. Now the panchayat which has to pay to the Government all the contributions that I have mentioned just now has no voice in the appointment of the executive officer. I shall put a straight question to the Hon. the Ministers. Suppose you are appointed by somebody else—say by the Central Government—and this Province is to pay your salary and allowances. Will that amount to self-government? Will that mean autonomy in the State? ”

MR. CHAIRMAN :—“ I do not want to interrupt the Leader of the Opposition. Will he explain what he feels about this situation? If the panchayat is made the appointing authority, it also becomes the dismissing authority. So, if a panchayat appoints an officer, dismisses him and again appoints another officer in his place, what would happen to that poor fellow? At least in this case, there is a chance for the officer, if he is not wanted by a particular panchayat, to get transferred to some other place? What does the hon. Leader of the Opposition think of such a situation? ”

* DR. V. K. JOHN :—“ I am not dealing with the tenure of service of a man who is appointed. Now, the Chief Secretary is appointed by the Government. I do not say the Ministers must every day dismiss the Chief Secretary, appoint another, then dismiss him also and go in for yet another Chief Secretary. There are rules governing such matters.”

MR. CHAIRMAN :—“ Even supposing what the Leader of the Opposition says is true, there may be certain panchayats which may find it impossible to get on with their executive officers. In that case, as the clause stands at present, they can ask the Government to post some others in their places. But if they are made the appointing authority, the interests of the officers will be in jeopardy.”

* DR. V. K. JOHN :—“ Are we looking at the man appointed to the post or are we looking at the panchayats at self-governing units, as laid down in the Constitution? ”

MR. CHAIRMAN :—“ I think we must look at both.”

* DR. V. K. JOHN :—“ I cannot understand the logic behind this move. The panchayats can levy taxes but they cannot appoint their own officers. I shall give an analogy here. How are the Secretaries to Government, Collectors and Heads of Departments appointed? Are they appointed by a foreign body? ”

16th February 1950]

MR. CHAIRMAN :—“ Perhaps the hon. Member takes it for granted that panchayats are self-governing units. That is not really the case.”

* DR. V. K. JOHN :—“ That is what I am emphasising. I say that the panchayats contemplated in the Bill are not units of self-government. I know the fate of my amendment. But the public must know that this Government or the primates of this Bill had not had the slightest idea of the directive principles contained in the Constitution. I must bring home to the House that the persons who are administering the affairs of the panchayats should be persons appointed by the panchayats themselves. Sir, in my alternative amendment, I have gone to the extent of asking the Government to allow the panchayats at least to recommend such persons as they choose to the Government for appointment as executive officers. As I have said in the beginning, this Bill appears to be one designed to add to the revenues of the State for the services rendered by it and to extend patronage. Thousands of appointments have to be made and I ask ‘ why not these be done by the Public Services Commission in consultation with the chairmen of the panchayats concerned ’. Why should the Services Commission in this State be on a holiday? ”

MR. CHAIRMAN :—“ For the information of the hon. Member I may tell him that all appointments are not made by the Services Commission.”

* DR. V. K. JOHN :—“ That may be, Sir. But what I say is the executive officers be appointed by the panchayats so that we may make the panchayat a unit of self-government, or at any rate let there be a recommendation by the panchayat for the appointment of the person. If you think that the panchayat may not recommend the proper man, let there be another recommendation by the Public Service Commission. Why should this Government go on trying to create offices, appoint persons and exercise that patronage. Why should they spend the time on patronage? This is a very important matter. 12-30 P.M.

“ There are two points for consideration. First is the administrative control by the panchayat. They must appoint a man whom they want and they must pay what they can afford to and not what the Government prescribes. It may be that the panchayat collects Rs. 5,000 by way of taxes and Government will make some small contribution. What that contribution would be is not mentioned. They may contribute more to one and less to another but they can put in officers and ask the panchayat to pay all the money to the men whom they have appointed. There will be very little left for the panchayat to spend on social services. It is the panchayat that pays the officers. They must have the right to fix the pay of these officers. They are not allowed to do this. This is forgetting article 40 of the Constitution of India. When this Bill was drafted the draftsmen never had the slightest

[Dr. V. K. John] [16th February 1950]

idea of that article. I ask the Hon. Minister whether this Government is treating the panchayat as a unit of self-government by appointing executive officers without consulting the panchayats. In my opinion the whole Act should be scrapped and a new one introduced to make the village panchayat a self-governing unit."

* SRI R. SURYANARAYANA RAO :—" You will remember, Sir, I have been putting a number of questions in this House regarding the appointment of executive officers both to local bodies and municipalities. If you examine the answers, these are the only services which would be found outside the purview of the Service Commission. The Hon. Minister assured me on the floor of the House that the matter of giving power of selection to the Service Commission was under consideration. Now is the time, as the hon. Gentleman, the Leader of the Opposition said, to do it. Let the Hon. Minister assure us that the selection will be handed over to the Public Service Commission. Under this Act about ten thousand appointments will have to be made. Will the Hon. Minister be engaged only in making appointments, dealing out punishments and removing the officers from service instead of attending to the administration? The power of selection should be given to the body which is meant for that purpose. This service is the close preserve of the Government, not to-day, but since the days of the Montagu-Chelmsford reforms. The previous Governments and the present Government were anxious to have this power of appointing executive officers in their hands. These were somehow kept outside the purview of the Public Services Commission. There was a suggestion to have a separate Public Services Commission for the selection of local board and municipal employees. I, therefore, entirely agree with the Leader of the Opposition and support his amendment. It is true that these panchayats should have no power or voice in selecting their own officers though it may militate against article 40 of the Constitution of India. I am sure when this Bill was under preparation the Government were not aware of it. But they have practical difficulties in giving effect to it because these are officers of Government and if a panchayat is to be given power to appoint its own executive officer it should have the power to dismiss, etc. That means that the officer must end his life as an executive officer of the particular panchayat without probably any promotion to another panchayat where the emoluments are higher. The Hon. Leader of the Opposition did not appreciate these difficulties. I, therefore, wish the Government would give us an undertaking that as soon as possible they would place the power of selection of these officers in the hands of an independent body like the Public Services Commission or create a body like the Commission. In reply to my questions the Hon. Minister stated that the matter was under consideration but nothing has come out. If local administration is to be conducted properly without political influence and if the executive officers are to carry out the functions entrusted to them

16th February 1950] [Sri R. Suryanarayana Rao]

without fear or favour, selection of these officers should be made by an outside authority. They should not owe their appointment, the initial appointment to the Government. With these words, I have great pleasure in supporting the alternative amendment moved by my friend, the Leader of the Opposition."

SRI B. NARAYANASWAMI NAYUDU :—" I wish to place one or two points before the House in regard to this matter. Under the English Act powers to appoint the local Government's executive officers, Health Officers and others are vested entirely with the local council or local board and is not entrusted to the Central Government. It is only in India and in this State—I do not know about other states—that the power has been taken by the Central authority. I can understand this when there was a foreign Government. My submission is that the Executive Officers should be appointed by the authority which pays them, namely, the local authority.

" The second point which I want to place before this House is this. It is wrong to call these persons officers, create them into a service and regard them as pensionable, and so on. Why attach all these big things to these officers of whom you are to have five hundred or more? I want to know whether it would be practicable from the point of view of the very little financial resources available to the panchayats. Look at the English Constitution. What is the designation given to the officers there? He is called the parish clerk. The President of the Parish Council can appoint a clerk. That is the English law. Why do you want to appoint executive officers, frame rules, etc? My Friend Sri Suryanarayana Rao wants to have Public Service Commission, fixity of service. What is all this about? There will be two thousand to three thousand of these officers. Are you going to waste the slender revenue upon these officers pay, travelling allowances and all that. Why not ask the panchayats and local boards to appoint their own clerks? The only course open to us is to allow the executive authority to be appointed by the elected body. It is for them to have a clerk or not to have a clerk at all. They may pay the clerks according to the resources and according to the necessities. There is very little reason for the enactment of this clause."

THE HON. SRI K. CHANDRAMOULI :—" Sir, I wish to dispel a wrong notion, in the first place, viz., that we are going to appoint an executive officer to every panchayat."

SRI B. NARAYANASWAMI NAYUDU :—" I never said that."

* THE HON. SRI K. CHANDRAMOULI :—" The hon. Member mentioned that five hundred officers are to be appointed. This amounts to saying that executive officers are proposed to be appointed to each and every panchayat board. It is not the policy of Government considering the financial and other considerations.

[Sri K. Chandramouli] [16th February 1950]

On the other hand I have made it clear that as far as possible these executive officers would be eliminated and make panchayats independent of these officers. We wanted to have them only as a transitory provision.

"The second thing is, I can understand if Dr. John said that there was no need for the executive officers or that the panchayats might have their own way, in this matter of appointment of executive officers. But they said that they should be appointed by the Services Commission. Then these executive officers can be paid anything and they can have all the other conditions of service and other things. The only complaint is that the Government should not appoint these men. This is the only point brought out by Dr. John. Even Sri Suryanarayana Rao brought in the question, that the District Panchayat Officers were appointed by the Government. They are not appointed by the Government. A Committee has been appointed for this purpose and that Committee calls for applications and makes the appointments. During the period when there were no elections to the local boards, the powers of appointment were with the Collectors. Ever since the district boards came into existence, the powers are exercised by them and not by the Government.

"The only fear of hon. Dr. John is that we are patronising everybody. I would ask, Dr. John to show one instance of this kind. If Government were to go on, on that line, I assure him that we will take away all powers of appointment. These officers are appointed to see that the resolutions or the purposes of the Panchayats Bill are carried out and they are appointed by the Inspector of Local Boards and Municipal Councils in the ordinary course. The Government are not appointing the executive officers.

"I may point out one important thing. Even the Services Commission was averse to taking up work relating to these officers for appointment in local boards.

12-45
p.m.

"I may mention that when a similar suggestion was made in regard to the appointment of municipal commissioners the Madras Public Services Commission was averse to taking up work relating to recruitment of candidates for appointment in the services of the local boards."

DR. V. K. JOHN :—"Why?"

* THE HON. SRI K. CHANDRAMOULI :—"Why, I do not know. Dr. John should ask the Services Commission. All these complications were there. If the Government are abusing their powers or patronising or doing any other thing, I can assure Dr. John that we will adopt some other method. Till then I would request Dr. John to see why we are appointing these officers. It is to have uniformity. I cannot accept the amendment. I request the hon. Member to withdraw the amendment."

DR. V. K. JOHN :—"One word, Sir, in reply."

16th February 1950]

MR. CHAIRMAN :—“ The hon. Member has no right of reply on an amendment. The question is—

‘ that for sub-clause (1) of clause 28, the following be substituted :—

“ The panchayat may appoint a whole-time executive officer,” or

“ A full-time executive officer may be appointed by the Government on the recommendation of the Public Service Commission and the panchayat concerned ”.”

The amendment was put and lost.

Clause 28 was put and carried.

Clause 29 was put and carried.

Clause 30.

* DR. V. K. JOHN :—“ Sir, I beg to move the following amendment :—

‘ that the following be added at the end of clause 30 :—

“ Provided however that the executive authority shall discharge his duties and exercise his powers, under the control and direction of the panchayat.” ’

Sir, this is meant to make the panchayat a self-governing unit. The executive officer should do everything under the control and direction of the panchayat. Even in a company, under the Companies Act, the managing agent should discharge his duties under the direction and control of the Board of Directors. I do not therefore see why the executive officer should not be asked to do everything under the control and direction of the panchayat. The Hon. Minister said last time that the executive officer will be the executive authority if he is appointed and otherwise the president will be the executive authority. He also said that it is a transitory provision. I was very pleased to note that the appointment of executive officers was only transitory, just for a period, and that later on the panchayat itself will take over the administration. Why not therefore say in clause 28 that the Government may appoint a whole-time executive officer instead of saying that a ‘ whole-time executive officer shall be appointed ’? If the power to appoint is conferred on the Government, under the General Clauses Act the Government may exercise that power over and over again and they can also amend, alter or repeal what they have done. They could well have used the word ‘ may ’ instead of the word ‘ shall ’. The whole thing is so shabbily drafted. It may be said that ‘ shall ’ may mean ‘ may ’. Why not say ‘ may ’ instead of ‘ shall ’ which compels the Government to appoint? Without knowing the meaning of the wording, the Hon. Minister says that the thing is only temporary. Now at least, after reading Article 40 of the Constitution of India—I use the word ‘ now ’ advisedly, because I am afraid he has not read it before—can the Hon. Minister say that the executive officer who is to carry out the

[Dr. V. K. John] [16th February 1950]

administration of the panchayat need not be under the control and direction of the panchayat? Now the Government may appoint the executive officer and fix his pay. And they are doing it on the eve of the election. They may do all that. After doing that, why not they allow the panchayat to have supervision and control over the executive officer, if they have the slightest idea of conforming to the ideal adumbrated in Article 40 of the Constitution of India? Now there is no self-government whatsoever in the panchayat: everything is taken away. Our opinion is—and it is shared not only by many members of the House but also by others—that the Government having exhausted all avenues of taxation now what the panchayats to tax themselves and the Government will be appointing executive officers in the exercise of their patronage. It is a horrible state of affairs. You have collected 57 crores of rupees by means of sales tax and other taxes and you are spending it mostly on administration, on paying men whom you have appointed and in respect of whom you have exercised your patronage. Now you want the panchayats to collect two crores more. For what purpose? To pay the executive officers and the staff appointed by the Government and whose pay is fixed by the Government. It is undemocratic. It is not making the panchayat a unit of self-government. My amendment to clause 30 is a very small amendment. Even if you appoint your own men as executive officers on the eve of the elections, even if you try and put in as many of your supporters as possible in the villages, even if you fix their pay very high, let the administration of the panchayats be carried on under the direction and control of the panchayats. At least do that. I want the Hon. Minister to answer the points that I have raised."

SRI R. SURYANARAYANA RAO :—" Sir, I second it."

* THE HON. SRI K. CHANDRAMOULI :—" Sir, I will answer the points raised by Dr. John. He wants that the executive officer should discharge his duties and exercise his powers under the control and direction of the panchayat. That is practically the same idea as ours. Only where the executive officer differs from the panchayat, when the panchayat exceeds its powers or abuses its powers or when there is danger to human life or peace of the village, it is only then that the executive officer will refer the matter to the Government. In all ordinary matters, the resolutions passed by the panchayat and the policies enunciated by it will be executed and shall be executed by the executive officer. But he cannot execute resolutions when they are wrong. But he cannot himself disallow them. He has only to refer the matter to the Government or the competent authority and get the resolution cancelled or done something else. There is therefore very small difference between Dr. John and myself. Dr. John wants that any resolution passed by a panchayat irrespective of whether it is dangerous to human life or whether it has exceeded the powers or abused the powers, should be executed. I say that the executive

16th February 1950] [Sri K. Chandramouli]

officer should execute only proper resolutions and resolutions which are within the powers of the panchayat. The rest should be referred to the Government. That is why I am sorry I cannot accept his amendment."

(At this stage Dr. Lakshmanaswami Mudaliyar took the chair.)

The amendment of Dr. John was put and lost.

Clause 30 was put and carried.

Clauses 31 and 32 were put and carried.

Clause 33.

* DR. V. K. JOHN :—" I move, Sir—
' that sub-clause (ii) be omitted.'

" It is stated here that the executive authority may, by an order in writing, delegate any of his functions as such . . . if he is not the president, to the president. The executive officer is supposed to be below the president in status and authority. Why should he delegate his authority to the president? Why not to some other officer? After all we have to keep up certain forms. Can a subordinate officer delegate his powers to a superior officer? I can understand the Government saying that if the executive officer is absent or if there is no executive officer, the president is the executive authority. But I cannot understand the Government saying that the executive officer may delegate his functions to the president. It is nonsense to say the least. After all, you have to respect the position of the president. Is an officer appointed by the Government to order the president to execute certain delegated authority. The executive officer may as well delegate some minor matters to the president thinking that he need not waste his time on them. In the Madras Corporation the Commissioner may delegate his powers to officers subordinate to him, like the Engineer and others."

SRI R. SURYANARAYANA RAO :—" It says here ' by an order in writing '."

* DR. V. K. JOHN :—" Yes, it is by an order of the executive officer in writing to the president. After all do this Government understand the elements of drafting? Do they understand the principles underlying this Bill? How can the executive officer who is subordinate to the panchayat—just now the Hon. Minister said that he is subordinate to the panchayat—by an order delegate his functions to the president? Can he not find somebody else, his clerk or somebody to whom he can delegate his functions? The executive officer may as well say that he finds it a bother to sign 100 letters a day and ask the president to sign it for him. Sir, it is derogatory to the prestige of the president of a panchayat, which should be a self-governing unit. The president should carry respect in that village. He is far above the executive officer in his status. But we are told here that ' by an order in writing ' the executive officer who is subordinate to him, may

[Dr. V. K. John] [16th February 1950]

delegate his functions to him. In this connexion, I wish to quote a small passage about the working of the Australian Parliament, which is supposed to be a democracy :—

‘Another development in the politics of Australia is the caucus system. It is said that the party organization and discipline became so rigid that the lower Houses of Parliament ceased to be places where measures were seriously debated and Members came knowing precisely how they should vote.’

That is the position in this House. Has there been one matter seriously debated in this House? We know the fate of the amendments we move here. The Congress Party discipline is so rigid that their members cannot vote as they please. There is no serious discussion here, when the Government have decided the matter once. That is why we decided at one stage that we would not move any amendments here as all the amendments were defeated on account of party discipline. Where the party have a large majority, if they want to make this legislature a really democratic institution what they should do is this. Where a vote is not a vote of confidence in the Government, full freedom of voting should be given to the Members.

1 p.m.

“Sir, I am very strongly of the opinion that this point should be seriously debated here. There is no use of discussing it piece-meal. I ask the Hon. Minister if he can say with any degree of reasonableness that the President can be ordered about by the executive officer, who has to carry out the orders of the President. I think this point might not have been considered by him. If the Hon. Minister has made a mistake in introducing this clause or a mistake has been committed by his advisers while drafting the Bill, now that the mistake has been pointed out to him, I hope he will accept my amendment and also accept the fact that the honour and prestige of the President should be kept up and should not be disturbed. But on the other hand, if the Hon. Minister stands on prestige and say that ‘I have my votes behind’ then let him oppose my amendment. However, I want to make it very clear here that this is a test case for the Government to accept this amendment or not.”

JANAB ABDUL LATIF FAROOKHI :—“Sir, I second the amendment.”

* THE HON. SRI K. CHANDRAMOULI :—“Sir, let me say one thing before I discuss about this amendment. Dr. John has dealt at length with democracy and in effect has chosen to say that this is an autocratic measure brought in the name of democracy. I want to make it plain here that this has been brought not on the will of any particular individual, however, powerful or intellectual he may be. The whole Bill has been drafted, as Dr. John himself knows full well, on the general will of the people and also the hon. Members of the Legislature. The Bill was examined by a Select Committee and it was passed by the Assembly. Now, supposing I do not accept an amendment brought forward by Dr. John, he will say that it is against democratic principles. If I accept his amendment, it becomes democratic. Otherwise it is not. I cannot simply understand this sort of argument. Let him not go with that wrong impression

16th February 1950] [Sri K. Chandramouli]

that his amendments are not accepted because we have a majority on our side. I want to say one thing here. I think democracy means rule by majority and I do not think there is any other alternative. I challenge Dr. John or for that matter anybody, if they can come and say that they can rule with the opinion of the minority. I say that it will not be possible for them to do so. I am very sorry that such arguments have been brought forward by Dr. John.

"Now coming to the amendment proper, I may say that there is no dictation or ordering by the executive officer. Supposing, the executive officer is sick or for some other reason he wants to take leave say, for 15 days or so, then somebody should carry on the work of the panchayat. For this purpose it has been provided that he will delegate his functions to the President. I do not know how this will be derogatory to the position of the President. In many cases the President himself is the executive officer and he has more powers. In places where there is the President as well as the executive officer, the executive officer, whenever he goes on leave, will delegate his powers to the President. So, to make it uniform in all such places, where you have got both the President and the executive officer, whenever the executive officer goes on leave, it is considered desirable that the first preference should be given to the President and nobody else. So, I do not see that there is anything wrong about it."

MR. CHAIRMAN (Dr. A. Lakshmanaswami Mudaliyar) :—
"There is another sentence clubbed to this clause, saying, ' . . . subject to such restrictions and conditions as may be laid down by the executive authority and shall also be subject to his control and revision ' will this be consistent with the President's power to accept such an order from the executive authority? "

THE HON. SRI K. CHANDRAMOULI :—"If the President feels that it is derogatory or will affect his self-respect, then he need not accept it. There is absolutely no compulsion here. But, I may tell that there is nothing wrong in the executive officer putting some conditions while he delegates his powers. This is usually done in many cases."

* SRI R. SURYANARAYANA RAO :—"Sir, by the phrase, 'by order in writing,' it seems as though the executive officer is going to be the supreme authority in a panchayat. I do not know why the Hon. Minister could not agree at least to the omission of the phrase 'by order in writing' and simply say 'delegate his functions.' I think it will look very ridiculous if this phrase is allowed to continue there. After all, we have to respect the President. The executive officer who is supposed to be working under the President should not be allowed to order the President. This will not add to the dignity of the President. We must take every care to maintain the honour and prestige of the President and nothing should be done which is calculated to

[Sri R. Suryanarayana Rao] [16th February 1950]

prove derogatory to his position. My appeal to the Hon. Minister is to omit this phrase. This will not in any way lessen the power of the executive authority, but at the same time, the dignity of the President and the Vice-President will be maintained. (At this stage, Hon. Chairman resumed the Chair.) I hope the Hon. Minister will see his way to omitting at least the phrase 'by order in writing' and thus help the President to maintain his prestige."

MR. CHAIRMAN :—" The question is—

' that in clause 33, sub-clause (ii) be omitted. ' "

The amendment was declared lost.

Dr. V. K. John demanded a poll.

A poll was accordingly taken and the House divided as follows :—

Ayes.

- | | |
|------------------------------------|-------------------------------------|
| 1 Dr. V. K. John. | 5 Sri A. Gopalakrishnayya. |
| 2 Janab Abdul Latif Farookhi. | 6 „ M. D. T. Kumaraswami Mudaliyar. |
| 3 Dr. A. Lakshmanaswami Mudaliyar. | 7 Mrs. M. N. Clubwala. |
| 4 Sri B. Narayanaswami Nayudu. | 8 Sri R. Suryanarayana Rao. |

Noes.

- | | |
|--|---|
| 1 The Hon. Dr. T. S. S. Rajan. | 10 Sri N. Sankara Reddi. |
| 2 The Hon. Sri K. Madhava Menon. | 11 „ N. Venkatachalamaji. |
| 3 The Hon. Sri C. Perumalswami Reddiyar. | 12 „ M. Sudarsanam. |
| 4 The Hon. Sri J. L. P. Roche Victoria. | 13 „ A. Govindacharlu. |
| 5 Sri K. Venkataswami Nayudu. | 14 „ S. A. S. Rm. Ramanathan Chettiyar. |
| 6 „ S. B. Adityan. | 15 „ M. K. Sundarama Iyer. |
| 7 „ M. Narayana Menon. | 16 „ P. R. K. Sarma. |
| 8 „ L. Subbarama Reddi. | 17 Mr. A. S. T. F. Rodriguez. |
| 9 „ M. Narayana Rao. | 18 Dr. P. S. Srinivasan. |
| | 19 Sri C. Veerabhadra Rao. |

The amendment was lost, 8 voting for and 19 against it. Clause 33 was put and carried.

Clause 34.

DR. V. K. JOHN :—" Sir, I move—

' that in sub-clause (1), for the words " the Inspector," the words " the panchayat " be substituted.'

" Clause 34 deals with officers and servants of the panchayat. Sub-clause (2) says :

' The Government shall have power to make rules regarding the authorities who may appoint the officers and servants of panchayats, other than the executive officers, and the classification, methods of recruitment, pay and allowances, discipline and conduct, and conditions of service of such officers and servants.'

" At the same time, sub-clause (1) says—

' Subject to such rules as may be made under sub-section (2), the Inspector shall fix, and may alter, the number, designations and grades of, and the salaries, fees and allowances payable to, the officers and servants of every panchayat, other than the executive officer.'

16th February 1950] [Dr. V. K. John]

“ My amendment is to substitute the word ‘ panchayat ’ for the word ‘ Inspector. ’ To put it more clearly, I want that the panchayat shall fix, and may alter, the number, designations and grades, and the salaries, fees and allowances payable to the officers and servants of every panchayat, other than the executive officer of course. If the panchayats are to be self-governing units, there is no point in vesting the Inspector with powers to discharge these duties. That will be repugnant to Article 14 of the Constitution. It will also appear ridiculous in the extreme. By retaining the sub-clause as it exists now; the Government are trying to take away even the normal functions of the panchayat and give them to some officer appointed by them. This amounts to calling it by one name while actually it should bear another. Let the Government come out and openly declare ‘ we are not planning any village panchayat as required by Article 14 of the Constitution but are only trying to collect taxes from the villages and appoint our own men and extend our patronage ’; then I shall have no quarrel with them. And there will be no criticism at all, except of course the general criticism that the Government are not mindful of public opinion. His Excellency’s Address—if it is not out of place for me to refer to it here—also makes mention of Article 40 of the Constitution of India in this connexion. In the light of these facts, I put a straight question, ‘ why make this tall claim, when you do quite the contrary thing? ’ In the appointment of executive officers, the Government did not want to give in. At least, in respect of menials and peons, should not the panchayats have the power of appointing and dismissing them? This is a very small matter and I think the Government can accept this amendment.”

MR. CHAIRMAN :—“ May I know whether clause 34 precludes the panchayats making appointments in respect of peons and other menials? I mean that sub-clause (1) refers to only fixation of and alteration in the number and designation of posts. I would like the Leader of the Opposition to examine if it is not so.”

DR. V. K. JOHN :—“ The Bill says that the rules to be framed will prescribe the appointing authority and I am sure the rules will prescribe some other authority than the panchayats. Nowhere in the Bill is it stated that the panchayats are the appointing authorities.”

MR. CHAIRMAN :—“ It is taken for granted that they are.”

DR. V. K. JOHN :—“ If it is taken for granted that the panchayats are the appointing authorities, let the Hon. the Minister get up and say it is so.”

MR. CHAIRMAN :—“ Let not Dr. John misunderstand me. I am reading the Bill as he reads it. Nowhere does the Bill say that the Inspector is the appointing authority.”

DR. V. K. JOHN :—“ Whatever that be, Sir, so long as the Government have power to make rules regarding the authorities

[Dr. V. K. John] [16th February 1950]

who may appoint the officers and other servants of the panchayats, the panchayats cannot be called units of self-government. The panchayats are left with no more powers than for imposing taxes and I cannot, therefore, help repeating my charge that the two objects of this piece of legislation are to collect taxes and distribute favours. Not one single iota of power appears to vest in the panchayats and there is obviously no intention on the part of the Government to implement Article 14 of the Constitution. If the Government contend, however, that this legislation was taken up long before the new Constitution came into force and so the requirements of Article 14 could not be foreseen then, I would request the Government to scrap this Bill and introduce a fresh one based on the directive principles of the Constitution. Or if the Government say 'we will go against this Constitution,' let the public know, let the Government of India know and let the leaders in Delhi know that this State of Madras is determined to go against the directive principles laid down in the new Constitution. Let everybody know that this Government is exercising every power which should legitimately be exercised by others. I say, Sir, there is a limit to these things. This Government is guided and controlled by the Constitution and it is a very sacred document for us, for the time being; it is indeed a pity that this Government should take up the attitude of saying, 'we will not respect it, we will set at naught the directive principles contained therein and we will go our own way.' "

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second it, Sir."

MR. CHAIRMAN :—" The amendment is—

' In sub-clause (1), for the words " the Inspector " substitute the words " the panchayat " . ' "

* THE HON. SRI K. CHANDRAMOULI :—" Sir, I am very sorry that the Leader of the Opposition has made such sweeping remarks, and I cannot let them go without a proper reply. He perhaps feels that he is very very loyal to the Constitution and to the Government of India and that all others are not so loyal. That is very wrong and let him not go with that impression. He may be loyal but there are many people equally loyal. They are as zealous as or even more zealous than Dr. John to safeguard the Constitution and to be loyal to it. I may assure him that I am also one of those who want to preserve the sacredness of the document and let him not think that others are only capable of abusing it. That is a wrong notion. And at the same time, he cannot cast reflection upon the Ministers"

DR. V. K. JOHN :—" I have not cast any reflection on the Hon. the Ministers. I only expressed the views I hold with regard to the Bill before us."

THE HON. SRI K. CHANDRAMOULI :—" Everyone is entitled to hold his own views about things. But I expected the Leader of the Opposition to make such statements as would befit the dignity of the House."

16th February 1950]

DR. V. K. JOHN :—" The Hon. the Minister has misunderstood me. I have not cast reflection on anybody. All that I said was that it was obligatory on the part of the State to carry out the directive principles contained in the new Constitution."

THE HON. SRI K. CHANDRAMOULI :—" In that case, I am sorry."

MR. CHAIRMAN :—" Both can say what they have said." (Laughter.)

* THE HON. SRI K. CHANDRAMOULI :—" The only point made by Dr. John is that instead of the Inspector fixing the pay, number and other things relating to the posts of menials and others, he wants the panchayat itself to do that work. Suppose, there is a big panchayat belonging to the first grade and it fixes the pay for a particular category at Rs. 10. Suppose, also, another panchayat fixes the salary for the same category at Rs. 12. Then there will be no uniformity in the matter of scales of pay. It is in order to ensure uniformity in the pay scales in respect of establishments whose duties are identical, the Inspector is given powers to regulate such conditions. There is nothing more than this I have got to say and I request the Leader of the Opposition to withdraw his amendment."

DR. V. K. JOHN :—" Is the pay of officers uniform in all States? "

THE HON. SRI K. CHANDRAMOULI :—" I cannot say that. But, here, we want to maintain some sort of uniformity."

MR. CHAIRMAN :—" The question is—

' that in sub-clause (1), for the words " the Inspector," the words " the panchayat " be substituted.' "

The amendment was lost.

Clause 34 was put and carried.

Clauses 35, 36, 37, 38, 39, 40 and 41 were separately put and carried.

Clause 42.

DR. V. K. JOHN :—" Sir, I move—

' that in sub-clause (1), the words " and shall also exercise the powers and perform the duties vested in him by or under this Act " be omitted.'

I would like to invite the attention of the Hon. the Law Minister to the strange feature in this sub-clause, viz., that besides supervising the administration of the panchayat, the Inspector shall discharge the other duties mentioned in the Act. Each clause of the Bill assigns a certain function to the Inspector or the panchayat. When such is the case, I see no need for the provision to say that the functions mentioned in the other clauses

[Dr. V. K. John.] [16th February 1950]

shall also be exercised. This is not only redundant but ridiculous. When a particular section of an Act says that certain powers should be exercised by the concerned authority it becomes incumbent on that authority to carry out those things. After all, we are parties to this piece of legislation and it may be that all of us are not lawyers practising in Courts. But nobody with any commonsense can understand this unnecessary provision. If you want for instance that clause 40 should state what clause 30 has already said, then there should be a clause 50 to repeat what clause 40 has said and there will be no end to this. I do not understand this kind of drafting. This is a bad piece of drafting and I am sure the Hon. the Minister has not paid his personal attention to this. A Legislature cannot be a party to such kind of drafting. Everyone will laugh at it and the High Court Judges will pass strictures upon it."

1-30
p.m.

MR. CHAIRMAN :—" So you are moving only one amendment."

DR. V. K. JOHN :—" I will move the other amendment later."

THE HON. SRI K. MADHAVA MENON :—" The hon. Dr. John says that the amendment is intended to rectify the defects in the drafting of the clause. It is not so. I remember distinctly in the case of the Sugarcane Act such a clause has been included and it has been passed. I would like to point out that if hon. Dr. John's amendment were accepted the clause would read : ' The Inspector shall supervise the administration of all panchayats in the province.' Then it would be argued that the Inspector's powers under section 42 is narrowed and nothing can be done by him. So to avoid this we must definitely say that the power of supervision is over and above the powers which he has under this Act. It is only to bring out this that it has been put there. It may be put before or after. It is only a matter of opinion about the English language of which we are conversant to the extent we have understood it, in our schools."

DR. V. K. JOHN :—" I agree that in addition to the exercise of powers and performance of duties he shall also supervise. That is not provided elsewhere."

THE HON. SRI K. CHANDRAMOULI :—" When it is said under this Act, it means every clause of this Act. It is definite. So I oppose the amendment."

MR. CHAIRMAN :—" It is only a question of language. The question is—

' that in sub-clause (1) the words " and shall also exercise the powers and perform the duties vested in him by or under this Act " be omitted.' "

The amendment was lost.

16th February 1950]

DR. V. K. JOHN :—" Sir, I move—

' that for sub-clause (2) the following be substituted :—

" The Government may authorize any person to exercise or perform any of the powers or duties of the Inspector under this Act " .

" This is a clause which I want to put in, in place of sub-clause (2). Why I propose this is, if you will kindly see the definition, Government might come with a similar amendment later on."

MR. CHAIRMAN :—" It looks to me that your amendment does not take into consideration that the Government want some other than the Inspector whereas you want a separate body appointed in his place."

DR. V. K. JOHN :—" I want a definition of the word ' Inspector ' under sub-clause (2)."

* THE HON. SRI K. CHANDRAMOULI :—" Inspector means, the Inspector of Municipal Councils and Local Boards and includes any officer who is authorized by the Government to exercise or perform any powers and duties of the Inspector under this Act. So what the Government has to do is only to authorize a person to perform any of the functions of the Inspector. Then he becomes the Inspector."

MR. CHAIRMAN :—" Other than Inspectors they might appoint others also. The sub-section seems to contemplate not only Inspectors but some other officers."

DR. V. K. JOHN :—" Inspection and superintendence are given to the Inspector in a previous clause. Now what they should have done is only to take power to authorize any officer or person."

* THE HON. SRI K. CHANDRAMOULI :—" The difference is this. The original clause says ' any officer ' and not ' any person '. But Dr. John wants ' any person ', non-official or anybody. But the intention of the Government is ' any officer '. That is the position. I cannot accept the amendment of hon. Dr. John."

MR. CHAIRMAN :—" The question is—

' that for sub-clause (2), the following be substituted :—

" The Government may authorize any person to exercise or perform any of the powers or duties of the Inspector under this Act " .

The amendment was lost.

* THE HON. SRI K. CHANDRAMOULI :—" I move—

' that in clause 42, sub-clause (3) of the said Bill, for the word " revenues ", the words " Consolidated Fund " be substituted. '

This amendment is necessitated in accordance with the provisions of the New Constitution. I request the House to accept the amendment."

[16th February 1950]

MR. CHAIRMAN :—“ The question is—

‘ that in clause 42, sub-clause (3) of the said Bill, for the word “ revenue ”, the words “ Consolidated Fund ” be substituted.’ ”

The amendment was carried.

Clause 42 as amended was put and carried.

The House then adjourned for lunch.

(After lunch—2-30 p.m.)

The House re-assembled with Mr. Deputy Chairman (Sri K. Venkataswami Nayudu) in the chair.

**I.—THE MADRAS VILLAGE PANCHAYATS BILL, 1949—
DISCUSSION—cont.**

Clauses 43, 44, 45 and 46 were separately put and carried.

Clause 47.

THE DEPUTY CHAIRMAN :—“ Dr. John has given notice of an amendment. But he is not present.”

SRI B. NARAYANASWAMI NAYUDU :—“ May I move the amendment of Dr. John? ”

THE DEPUTY CHAIRMAN :—“ I am sorry it is not possible to allow the hon. Member to move the amendment.”

Clause 47 was put and carried.

Clause 48.

* JANAB ABDUL LATIF FAROOKHI :—“ Sir, I move—

‘ that in sub-clause (5) of clause 48, for the word “ Inspector ”, wherever it occurs, the word “ Government ” be substituted.’ ”

This sub-clause gives enormous power and responsibility to the Inspector. The power of fixing the salary and allowances payable to the person appointed to do the duties of the president is a patronage vested in his hands. If too much responsibility is placed in the hands of the Inspector, that responsibility may not be properly used. The public will feel that the Government will discharge that responsibility in a better manner than a subordinate officer. Therefore I move that the power proposed to be given to the Inspector should be given to the Government.”

SRI R. SURYANARAYANA RAO :—“ I second the amendment.”

* THE HON. SRI K. CHANDRAMOULI :—“ Sir, the hon. Member wants that the power proposed to be given to the Inspector should be given to the Government. Practically the whole administration of panchayats is carried on on behalf of the Government by the Inspector of Local Boards as the head of the

16th February 1950] [Sri K. Chandramouli]

Department. It is always better not to take too many powers by the Government and then give room for complaint that the Government interfere too much. When the Inspector is abusing his power, there is the Government to look into the matter. Besides, there is the right of appeal against the orders of the Inspector. After all this power relates to a transitory period between the dissolution and reconstitution of a panchayat or when the office of the president is vacant and has no application for all time. Therefore, I request the hon. Member to withdraw his amendment."

The amendment was put and lost.

Clause 48 was put and carried.

Clauses 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 and 62 were put and carried.

Clause 63.

DR. V. K. JOHN :—" Sir, I move—

' that in sub-clauses (1) and (2) of clause 63, for the word " shall " the word " may " be substituted. '

" The sub-clauses make it compulsory for every panchayat to levy the specified taxes and duty on certain transfers of property. Under the District Municipalities Act, the Local Boards Act and the City Municipal Act, taxes to be levied are left to the option of the local body concerned. The local body can pass a resolution specifying the taxes to be levied and only those taxes shall be levied. The Hon. Minister for Local Administration seems to think that we will be introducing self-government only if the panchayats are compelled to levy the specified taxes and duty without giving them the option to choose. When a foreign government were ruling, they did not want to give any freedom to local bodies and therefore did not give them powers of self-government as is envisaged in Article 40 of the Constitution. They would not invest these panchayats with as much authority and powers as would enable them to function as units of self-government. Now here the Government have simply copied down some of the provisions of the City Municipal Act, the Local Boards Act and the District Municipalities Act in a wrong way. I could have no objection, Sir, if they had also copied some of the provisions from those Acts which give these local bodies the option to levy a tax or not, in this Bill. But they have adopted a retrograde step in making these taxes compulsory and it is not in the direction of creating these panchayats self-governing units of village administration. They should have used the word ' may ' in this clause instead of the word ' shall ' and should have given them the option to levy these taxes or not if they like. (At this stage Mr. Chairman occupied the chair.) I say, Sir, that this is not going to create the village panchayat, a self-governing unit, but it is doing just the opposite of it. I am strongly of the opinion that these panchayats should be given the option in the matter of levying these taxes even as the other local bodies such as municipalities, local boards, district boards and the Corporation of Madras are

[Dr. V. K. John] [16th February 1950]

given. Of course in this Bill also the Government have given the panchayats the option in regard to the levy of certain other taxes. But here the Government are compelling the panchayats to levy the house-tax, the profession-tax and the vehicle-tax, and also a tax on certain transfers of properties. Suppose a panchayat feels that it should not levy any of these taxes at the rate prescribed by the Government, what can they do? They have no option at all in the matter. They must carry out the provisions of this Act in this respect. I ask, Sir, is it self-government? The Government are probably afraid that the panchayats will come and say, 'You are asking us to collect these taxes from the poor villagers who are already overburdened with so many other taxes, and particularly the sales-tax. You are compelling us to levy these taxes for the purpose of paying the salaries of executive officers whom you want to employ over us. We do not want this to be done.' It is probably for that very reason that no option is given to the panchayats in this matter.

"Sir, when Dr. A. Lakshmanaswami Mudaliyar was occupying the chair just a while ago, I moved an amendment that there should not be a provision that the president of the panchayat board shall be directed by order in writing by the executive officer to do certain things, or require the panchayat to carry out the instructions of the executive officer in certain matters. The Government did not agree to that amendment. The Government were not also agreeable to the suggestion that the panchayats should appoint these executive officers or to define the powers that they could exercise. My object is that the executive officers should be subordinate to the panchayat board and that they should carry out the orders of the panchayat board and be under the control of the president of the panchayat. Now what is it that the Government are doing in this clause? They want these panchayats to levy and collect these taxes from the villagers in order to pay these executive officers of the panchayat. I ask, Sir, is it just or proper to collect taxes from the poor people in the village in order to pay the executive officers who are to be appointed by the Government, over their heads? The Government should have left it to the option of the panchayat, so that if the panchayat finds that the executive officer is not of any use to the panchayat, it should dispense with his services in which case no tax would have to be collected. This sort of provision is going against the very spirit of Article 40 of the Constitution of this country. Perhaps the Hon. Minister is rather annoyed that I should bring in Article 40 of the Constitution of India again and again, because when it is brought to his notice and the notice of the House and of the public outside that this State is not carrying out the directive principle of State policy as enunciated in the Constitution, the Government might look small. Therefore they want that the opposition should not mention these things. Sir, I have nothing to say against any Minister of the Government and particularly the Hon. Minister in charge of this Bill. The other day I paid them a compliment that they are all patriotic gentlemen. I am prepared to pay compliment where compliment is due. But should I not correct them whenever they

16th February 1950] [Dr. V. K. John]

go wrong and point out that in no place in this Bill has any provision been made to make the village panchayat a unit of self-government? Should I not say, 'Why not you give option to these panchayats to tax or not as they like, even as you have given a similar option to the other local bodies in the matter of taxation.' You ought to go forward and not go back. Suppose the Central Government interfere in provincial matters and pass legislation for taxing this province on certain items, as for instance, the sales-tax, can this Government tolerate it? That is why I say that you must give them the option to tax or not, because we want the panchayats to be self-governing units of village administration and that is why I want that the word 'shall' in this clause should be substituted by the word 'may'."

* THE HON. SRI K. CHANDRAMOULI :—" Mr. Chairman, Sir, I have made the position of the Government clear on more than one occasion, particularly with regard to the powers of taxation vested in the panchayats. Dr. John says that by asking the panchayats to levy certain taxes compulsorily, the autonomy or the independence of the panchayats will be jeopardized. Sir, I am sorry that autonomy or independence does not mean licence. It means that they will have to work with certain well-defined powers and within certain limitations. Whatever might have been the powers and the functions of the panchayats previously in the matter of taxation or of providing amenities to the people in the villages, and whatever might have been the control exercised by the Provincial Government over these panchayats and the nature of help given to the panchayats by the Government from time to time, we cannot hereafter ask them to go on in the same old fashion. We want that the panchayats must have sufficient funds at their disposal in order to provide the essential needs of the villages and not to look for any help from the Government. We want that they should have sufficient income from within the village itself, before they can come up to the Government for any further help. They should not depend exclusively upon Government help for attending even to small essential things to be carried out in the villages. That is why we want them to tax themselves. After all what are the Government doing? They are also taxing the same people. Whether the taxation is by the Provincial Government or by the panchayats, the money has to come from the people and it does not come from the pockets of Dr. John or myself. It comes from the people as a whole."

MR. CHAIRMAN :—" Are we also not paying taxes? "

* THE HON. SRI K. CHANDRAMOULI :—" Yes, Sir, we are paying taxes; but we are paying only a portion of the taxes that are required to carry on the administration of the Province. What I say is that the panchayats must have some permanent sources of income and they should not depend upon Government help for anything and everything. In this Bill we have not made compulsory all the taxes to be levied by the panchayat. Only very few taxes are made compulsory. Even these are not going to touch the poorest of the poor. The house-tax is not going to be imposed on very poor people. If you leave everything to the option of the

[Sri K. Chandramouli]

[16th February 1950]

panchayats, then there will be great confusion, no tax will be collected and the panchayats will be in the same helpless position in which they were before. They could do nothing in the villages, nor even attend to their most essential needs by themselves. Then, at the very next opportunity the hon. Dr. John himself will come and say in this House, 'Oh! you have allowed the panchayats to go Scotfree; you have not compelled the panchayats to collect taxes from the villagers to meet their essential needs and therefore the panchayats are no good for the villages.' Sir, as I said, these taxes are only going to form a portion of the income of the panchayats. I must say, in this connexion, that there is a certain amount of misconception in the mind of Dr. John, particularly with regard to the position of the Government. He probably thinks that the Government want to escape their responsibilities and that panchayats should tax themselves for everything and that the Government want to enrich themselves, by getting all the money from the people and not giving anything to the panchayats. That is a wrong conception. We have not cut down even a single pie or a single item of grant that we had given to these panchayats before. On the other hand we are going to give as much as 12½ per cent of the land revenue to these panchayats in order to strengthen their financial position and to augment their resources. When I say that the panchayats should hereafter tax themselves, I want that they should not depend entirely upon doles or charities or grants from the Government for anything and everything. Sir, I come from a village, I have lived in the village and I know the condition of the villages and the working of the village panchayats. I know that if the village panchayats are to look for everything from the Government, and expect that even the essential amenities are to be provided by the Government, then I am afraid, nothing could be done by the panchayats and there will be no initiative on the part of the villagers or the panchayats to attend to any of these things. I therefore want that something in the form of tax must come from the villagers themselves in order that they may utilize it for their own benefit within the village itself as early as possible. That is why I am so very impatient that this Panchayat Bill should be enacted and the panchayat boards given power to do some useful work in the village. Even for small things like drinking water or the mending of the streets during the rains, they are now depending upon the Provincial Government. The Provincial Government are not rich enough to provide all funds that the panchayats require. That is why a portion of the taxes is sought to be compulsorily levied on the village itself, while certain others are left to the option of the panchayats, so that they may gradually improve their financial position and provide increased amenities to the people. In view of these reasons, Sir, I am sorry, I cannot accept the amendment of hon. Dr. John."

MR. CHAIRMAN :—" The question is—

' that in sub-clauses (1) and (2) of clause 63, for the word " shall " the word " may " be substituted.' "

The amendment was lost.

16th February 1950]

SRI B. NARAYANASWAMI NAYUDU :—" Mr. Chairman, Sir, I move—

' that in clause 63, sub-clause (1), the words " a vehicle tax " be omitted.'

" Sir, my object in moving this amendment is to see that the vehicle tax is taken away from the compulsory taxes to be levied under this Bill. As has been emphasized again and again by my hon. Friend, the Leader of the Opposition, we want that the levy of these taxes should be left to the option of the panchayats concerned and that no compulsion should be brought to bear upon these autonomous bodies. We should not interfere with the powers and discretion vested in these panchayats. That is our object. Later on in this Bill we are going to invest them with judicial powers also. Now you are compelling these village panchayat boards to levy house-tax, profession tax and a vehicle tax. What is a vehicle tax? It is a tax on bullock-carts in the villages. That is the plain meaning of it. The whole point is whether the levy of a tax on the bullock-cart compulsorily in the villages is proper or not. May I ask the Hon. Minister whether it was not optional hitherto? How many panchayats in this Province had been consulted in this matter and how many had expressed themselves in favour of levying a tax on the bullock-cart? If the Hon. Minister for Local Administration is of the opinion that the funds of the panchayats should be augmented by these compulsory taxes, let him at least make an option in the case of major panchayats, where the electorate can express themselves, whether they are for the levy of this tax or not. But the Hon. Minister says: Never mind the electorate; you must levy the tax on all owners of bullock-carts, because they are going to get 12½ per cent of the land revenue back from me. You should tax yourself in order to find more money for your village panchayats.' Sir, the vehicle tax has a long history behind it. Hon. Members know full well that there was in vogue what is known as the toll-gate fee in every town and in every municipality some years back. A fee used to be collected whenever a bullock-cart entered into the town or municipal area at the toll-gate. Hon. Members also know why it was abolished. We all know that the late Mr. Muniswami Nayudu 3 p.m. when he was the Chief Minister abolished the vehicle tax. We all know the wisdom or the unwisdom of it. Even if my amendment is not carried, I am not going to leave it and I am going to call for a division so that every Member on that side will know his responsibility for taxing the country carts. There is no option given to the panchayats whether they should levy the tax on country carts or not. What are the limits of the tax? Transfer of property is taxed. The rates of tax are not given. We are not told the limits within which the panchayats will be asked to impose taxes. A taxation measure must indicate the limits. The Government do not want the legislature to know what is the limit that will be imposed. Sir, I ask: can we be a party to such a legislation. If it is a pie tax, it may be levied. But if it is Rs. 10

[Sri B. Narayanaswami Nayudu]

[16th February 1950]

I may condemn it. It all depends on the rate of the tax. In this clause neither the maximum nor the minimum is vouchsafed. It is all vested in the hands of the Government. The rates may vary from village to village. The upper limit and the lower limit are not indicated. This should not be left to the discretion of the Government. Secondly, the vehicle tax is a tax on agricultural economy, and, therefore, should not be resorted to and should be opposed."

DR. P. S. SRINIVASAN :—" Sir, ' vehicle ' does not mean the ordinary country carts. It means the spring cart."

* SRI R. SURYANARAYANA RAO :—" Sir, may I draw the attention of the hon. Member Dr. Srinivasan to the explanation to clause 66. The explanation defines what is a vehicle. The explanation says—

" In this section, " vehicle " means a conveyance suitable for use on roads and includes any kind of tram-car, carriage, cart, wagon, bicycle, tricycle and rickshaw, but does not include a motor vehicle as defined in the Motor Vehicles Act, 1939."

DR. V. K. JOHN :—" I support this amendment, Sir. This is very important for the life of the village people. The explanation to clause 66 read out by Mr. Suryanarayana Rao includes all kinds of carriages. Clause 66 says—

" The vehicle tax referred to in section 63, sub-section (1), shall, subject to such rules as may be prescribed including rules relating to exemptions and restrictions, be levied every half year on all vehicles kept or used within the village at such rates as may be fixed by the panchayat not being less than the minimum rates and not exceeding the maximum rates prescribed."

" The Government have prescribed the tax on all vehicles, not only on vehicles kept or used, but even on vehicles coming into the panchayat area from some other village. I do not know whether there will be double taxation and treble taxation, on one and the same vehicle, because it may go through ten panchayats. These carts might be carrying foodstuffs. Some carts may be carrying manure or some other necessity to other villages. I ask, Sir, why the carts of these poor people be taxed to pay the officers appointed by the Government. It is atrocious that we should go to the extent of affecting the poor man's vehicle by asking him to pay tax on it. The poor man has to pay more tax on it than the cost of the vehicle itself. The Government do not understand all this. I can understand a motor vehicle, used in that place, being asked to pay the tax. But all motor cars are excluded, and the poor man's cart is sought to be taxed. I do not know why this Government should be so anxious to add to the cost of living. Why not they leave the villagers alone? What for are they taxing them? What offence these people have committed to pay the penalty of this vehicle tax? I assure you, Sir, that Government will tax these vehicles in such away that the very life-blood of the people will be extracted. The Government do not at all understand under what poverty, what filth, what ignorance and what conditions these villagers live. A man may have a small bullock-cart to eke out his livelihood. The Government go and tax him. I say this is very wrong. Why cannot the panchayat which will know the people better than the

16th February 1950] [Dr. V. K. John]

Hon. Ministers sitting in Fort St. George, have the option to tax. Mr. Narayanaswami Nayudu in his amendment does not mean that the villagers should not pay the tax, but he wants that there should be no compulsion on the panchayat to levy the tax, and that it should be left to the option of the panchayat. Why cannot the Government trust at least the panchayats which they say are self-governing units? Why not the Government trust the panchayats to levy this tax at a rate which the people can afford to pay? I say, Sir, that we sitting in this Legislative Council, are creating distrust in the minds of the villagers. I say with great responsibility that the villagers cannot afford to pay this tax at all."

* SRI R. SURYANARAYANA RAO :—" Speaking about house-tax, the Hon. Minister emphasized the fact that poor people's houses will be exempt. In order to support the house-tax, he put forward this argument. May I know what provision in regard to the vehicle tax he will make so that the poor people's vehicles may be exempt. The poor man with a bullock-cart, as the hon. the Leader of the Opposition stated, often ekes out his livelihood by carting the produce to the market and earning wages. Is it fair to tax even such vehicles? If the panchayats want to impose a vehicle tax, let them impose it. If the panchayat wants that certain classes of vehicles like vehicles with springs—as suggested by my hon. Friend Dr. Srinivasan—should be taxed, we have no objection. But if the discretion of deciding whether taxes should be imposed or not is given to the panchayats, then they will be able to decide which class of vehicles should be taxed. But, as it is, every vehicle except the motor car—because it comes under the Motor Vehicles Act—is to be taxed. I think, Sir, the Hon. Minister, in spite of all his good intentions, is sowing the seeds of discontent in villages without realizing the consequences."

MR. CHAIRMAN :—" Was not the hon. Member Mr. Narayanaswami Nayudu in the Joint Select Committee? "

SRI B. NARAYANASWAMI NAYUDU :—" The less said about it the better."

* JANAB ABDUL LATIF FAROOKHI :—" Sir, I just want to draw the attention of Government to one point. Clause 66 says ' . . . vehicles kept or used . . . ' May I know from the Hon. Minister whether unfit carts are also to be taxed. There are unfit carts in the villages without being used. Are they carts or not? If they are carts and can be used, are they also to be taxed? "

* THE HON. SRI K. CHANDRAMOULI :—" Sir, I have explained previously why certain taxes have compulsorily to be levied by the panchayats. Two points have arisen now. One is Mr. Narayanaswami Nayudu referred to the fact that in those days when Mr. Muniswami Nayudu was the Chief Minister he removed the tolls. I concede that. Taxation or any other law, just as Government in a State, cannot be a permanent one. As time rolls on, there will be healthy changes according to the suitability of the

[Sri K. Chandramouli] [16th February 1950]

times, the atmosphere and the conditions prevailing at the time. Because one tax was removed at one time, so it can never be allowed to be reimposed, is not a healthy argument. The second point is even in those days in every municipality carts were taxed. (Interruption). That is local administration. The hon. Member wants to draw a distinction. But I do not want to. It is local administration, and that is the point.

"There has arisen a doubt, which I want to dispel. It is not the intention of the Bill or rather the sponsors of the Bill that broken carts should be taxed. Suppose a cart is used for 30 days in the month, is not used for some time thereafter, and again is put into use. That cart will be taxed. That is the intention. The broken carts and unfit carts will not be taxed. Dr. John knows that every rickshaw in the City of Madras is taxed compulsorily. Is Dr. John allowing the poor man plying his rickshaw in the Corporation area to go without a licence? I ask him in all seriousness this question. It is all very easy to talk. (Interruption.) He is the legal adviser to the Corporation. That is why I say the spirit in which the proposals have been made should be taken into account. I am more anxious that villagers get more amenities as early as possible, because we cannot allow people to lose patience. I can assure Dr. John and other hon. Members that practically all the villages are in favour of these taxes. This Bill is not a new thing. It has not come all on a sudden. It has been before the public, before the Legislature, and before the Joint Select Committee. It has been discussed in all places. Only the general will of the people has been incorporated in the Bill. That is why, Sir, I am sorry I cannot accept the amendment."

3-15
p.m.

MR. CHAIRMAN :—"The question is—
'that in clause 63, sub-clause (1), the words "a vehicle tax" be omitted.'

The amendment was declared lost.

A poll was demanded.

The House then divided as follows :—

Ayes.

- 1 Sri A. Gopalakrishnayya.
- 2 „ B. Narayanaswami Nayudu.
- 3 Janab Abdul Latif Farookhi.
- 4 Dr. V. K. John.

- 5 Sri M. D. T. Kumaraswami Mudaliar.
- 6 „ R. Suryanarayana Rao.

Noes.

- 1 The Hon. Dr. T. S. S. Rajan.
- 2 The Hon. Sri K. Madhava Menon.
- 3 The Hon. Sri C. Perumalsamy Reddiar.
- 4 Sri K. Venkataswami Nayudu.
- 5 „ S. B. Adityan.
- 6 „ M. Narayana Menon.
- 7 „ L. Subbarama Reddi.
- 8 „ M. Narayana Rao.

- 9 Sri N. Sankara Reddi.
- 10 „ N. Venkatachalamaji.
- 11 „ A. Govindacharulu.
- 12 „ M. K. Sundarama Iyer.
- 13 Dr. P. S. Srinivasan.
- 14 Sri C. Veerabhadra Rao.
- 15 „ S. A. S. Rm. Ramanathan Chettiar.

The amendment was lost.

16th February 1950]

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" Sir, I move—

that—

" After sub-clause (3) (c), the following be added as new item (d) :—

' (d) Any other additional tax convenient and suitable to the village, not being a tax which may be levied in the village by the panchayat under sub-clause (1) or under sub-clause (3) (b), for a specified purpose '."

" Sir, the object of this amendment is this. The Government have allowed certain taxes to be levied by the panchayat. They should be used for special purposes such as drainage and water-supply schemes. The panchayat board will not be able to do any work unless it is given sufficient powers to levy special tax for emergent purposes. There is no provision in the Bill for that purpose. That is why I have moved this amendment. It may be accepted."

The amendment was duly seconded.

MR. CHAIRMAN :—" The amendment is—

that—

" After sub-clause (3) (c), the following be added as new item (d) :—

' (d) Any other additional tax convenient and suitable to the village, not being a tax which may be levied in the village by the panchayat under sub-clause (1) or under sub-clause (3) (b), for a specified purpose '."

* THE HON. SRI K. CHANDRAMOULI :—" Even the optional taxes may be levied if the panchayats wish. They are to be utilized for specific purposes. When any other specific purpose comes, it will be considered at that time. If it is specified now vaguely, the whole thing will become vague afterwards. That is what I want to prevent. So, I request the hon. Member to withdraw his amendment for as and when the panchayat wants to carry on any specific work, it can do it."

MR. CHAIRMAN :—" What is that provision? "

THE HON. SRI K. CHANDRAMOULI :—" They can raise one per cent of the tax on agricultural land for a specific purpose. Supposing they want to construct water-works, they can raise it. The provision is already there."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" What is that clause? "

MR. CHAIRMAN :—" ' A tax on agricultural land for a specific purpose '. That is in clause 63 (3) (b). That is not what

[Mr. Chairman] [16th February 1950]

he means. The Bill specifies certain optional and certain compulsory taxes. He wants power for the panchayat to levy any other tax for any other purpose. That is, it must have a general power to impose other taxes also if it wants."

THE HON. SRI K. CHANDRAMOULI :—" That we cannot allow. If not for a specific purpose, the case must come to the Government for sanction."

* SRI R. SURYANARAYANA RAO :—" Government decide what taxes should be imposed. People have no voice. This is taxation without representation. It is shameful. What Mr. Kumaraswami Mudaliyar wants is that the panchayat should be given the power, if it thinks it necessary, to impose some other additional tax. For example, in some municipalities and corporations, they have got a certain tax with the accumulation of which they can undertake schemes of drainage and water-supply. I do not know why the Government should fight shy of giving certain powers to the panchayat to decide for themselves to tax themselves. It seems to me that we lay down the law and they must abide by it. That is the attitude of the Government. I do not think this is a Village Panchayats Bill. This is a Bill imposed on the villages to suit the whims and fancies of the Provincial Government. The proposed amendment is a simple provision which any Government should be ready to accept. My Hon. Friend only says 'convenient and suitable to the village'. If the Government so wish, they may add 'with the previous sanction of the Government'."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I have no objection to the adding of those words."

* SRI R. SURYANARAYANA RAO :—" Supposing the panchayat is so foolish as to come to a decision to impose a tax which is opposed by some section of the public, let the Government either sanction and give the power or not give the power. But why are they not anxious to give any power at all to the panchayat? I do not understand the attitude of the Government. I think they have circumscribed the aspect of local self-government, worse than that of the bureaucratic Government. Here is a very simple demand. If you want you may say 'with the previous sanction of the Government or of the Inspector'; we have no objection. All that we want is that if the panchayat wants to impose a certain tax for a specific purpose, it should be enabled to do so by a resolution. It is very simple, Sir."

MR. CHAIRMAN :—" The Hon. Minister for Local Administration."

DR. V. K. JOHN :—" Sir, I would like to speak . . ."

MR. CHAIRMAN :—" Nobody else wanted to speak. So, I called the Hon. Minister. The hon. Dr. John may have his say."

16th February 1950]

DR. V. K. JOHN :—“ Sir, Government have not followed our suggestions. We have given them the option that with the permission of the Government, let the panchayat have the power to levy more taxes. Even this they cannot accept. We want to give more power to the panchayats, but the Government cannot accept it.”

* THE HON. SRI K. CHANDRAMOULI :—“ The taxation proposals have been divided into two categories—some compulsory and some optional. What Mr. Suryanarayana Rao wants is that the panchayat may be allowed to tax with the consent of the Government. Is it not restricting the panchayat again? Where is the freedom of the panchayat? They talk of freedom and at the same time against it also. They argue both sides. I am very sorry I cannot accept the amendment.”

The amendment was put and lost.

THE HON. SRI K. CHANDRAMOULI :—“ Sir, I move—

‘ that in clause 63 of the said Bill, add the following sub-clause at the end, namely :—

“ (4) clause (c) of sub-section (3) shall have effect subject to the provisions of Article 286 of the Constitution ”.’

“ This amendment has been necessitated in view of the adaptation. So, this may be accepted.”

MR. CHAIRMAN :—“ The amendment is—

‘ that in clause 63 of the said Bill, add the following sub-clause at the end, namely :—

“ (4) Clause (c) of sub-section (3) shall have effect subject to the provisions of Article 286 of the Constitution ”.’ ”

* DR. V. K. JOHN :—“ Sir, I oppose this amendment because it is a meaningless amendment. It says that subject to the Constitution of India it will be in force. If you will kindly look into the provisions of the Constitution, you will find in article 13—

‘ All laws in force in the territory of India immediately before the commencement of this constitution, in so far as they are inconsistent with the provision of this Part, shall, to the extent of such inconsistency.’

“ So, the fundamental principle is that a law which we make here in this Legislature cannot be inconsistent with or cannot override the provisions of the Constitution of India. Therefore, why should they bring in an amendment saying ‘ this clause 63 shall be subject to the provisions of the Constitution ’. Are we not educated gentlemen with the commonsense to understand a provision in a Bill that if there is a conflict between this Bill and the Constitution of India, the provisions of the Constitution will prevail? ”

MR. CHAIRMAN :—“ I do not know how the present clause as it exists is a contravention of the provisions of the Constitution of India. Article 286 of the Constitution of India only says that no

3-30
p.m.

[Mr. Chairman] [16th February 1950]

law of a State shall impose a tax on the sale or purchase of goods where such sale or purchase takes place, (a) outside the State or (b) in the course of the import of the goods into, or export of the goods out of, the territory of India. So clause 63 of the Panchayat Bill has nothing to do with that provision of the Constitution. The Hon. Minister does not want to tell the House how this can be tackled on to Article 286. He is simply relying on some notes prepared for him. We should know why we should say that this law is subject to the provision of the Constitution of India. Every law passed by even the Parliament at the Centre and the Legislature in the States is always subject to the constitution of this Country. Why should we particularise it here?

“Perhaps the panchayats may not know and it might have been thought that it would be better if they are reminded of the provision in the Constitution.”

DR. V. K. JOHN :—“I say that this is a meaningless amendment and therefore I very strongly oppose it.”

* THE HON. SRI K. CHANDRAMOULI :—“Article 13 refers to laws that were in force at the commencement of the Constitution and not to a Bill which will come into force hereafter. Dr. John's contention is that even if you do not mention that this is subject to the Government of India Act, it will be so. That is his contention. But here we want to make it very clear that Article 13 refers to”

DR. V. K. JOHN :—“I am not worried about Article 13. My point is that this should not be inconsistent with the provisions of the Constitution.”

MR. CHAIRMAN :—“As I said before, it is perhaps to remind the panchayats that there is such a provision in the Constitution and that this clause may affect that provision and so it asks them to be careful about it.”

DR. V. K. JOHN :—“Sir, though you supply that argument to the Government, I think it would be no compliment to them. I very strongly oppose the amendment.”

The amendment was put and carried.

Clause 63, as amended, was put and carried.

Clauses 64 and 65 were separately put and carried.

Clause 66.

SRI B. NARAYANASWAMI NAYUDU :—“Sir, I request the Hon. Minister to say if a particular panchayat, though it has the power to impose vehicle tax, refuses to impose that tax, that will be correct or not. Let us have the answer for that. I know that this point will not be answered. The Hon. Minister has said that it is one way traffic and that we belong to two-way traffic, and that we are blowing hot and cold. The question

16th February 1950] [Sri B. Narayanaswami Nayudu]

of blowing hot and cold does not at all arise here. We only want that just as in the case of Municipalities, some of these taxes are only optional, so also this tax should be optional in the case of panchayats. Let us have it to the good sense and will of the panchayats whether to levy this vehicles tax or not and let it not be compulsory. Why not the Hon. Minister say that 'just as the Municipalities are allowed to impose taxes or not, according to their will, so also the local bodies and the panchayats will be given the same option.' If we point out this, we are told that we are blowing hot and cold. That is not the correct parliamentary way of answering suggestions and criticisms. Of course they have got the votes behind them and they can say anything that pleases them."

* THE HON. SRI K. CHANDRAMOULI :—" Mr. Narayanaswami Naidu's contention is that this tax should not be compulsory and that as the law of the Municipality says that it will be optional, we must copy it out. That is his contention. But we want certain things to be compulsory. We have not hidden this fact. We want to make certain taxes compulsory in the interests of efficient administration so that these panchayats could be made effective self-governing institutions in course of time and they may stand on their own legs. That is the intention of the Government and I have made it sufficiently clear. That is why I feel I cannot accept the contention of Mr. Narayanaswami Naidu."

Clause 66 was then put and carried.

Clauses 67, 68, 69 and 70 were separately put and carried.

Clause 71.

DR. V. K. JOHN :—" Clause 71 says—

'The Government shall set apart every year a sum not being less than twelve and a half per cent of the total land revenue (including water-cess) collected in the Province during that year and distribute such sum in the prescribed manner as grants to Class II panchayats on the basis of their population.'

" My amendment to this clause is—

'For clause 71, substitute the following :—

"The Government shall make an estimate of the expenses incurred by the Panchayat in rendering by the Panchayat the services which the Government were rendering before the constitution of the Panchayat and contribute the equivalent of such expenses to the funds of the Panchayat in addition to any further contribution the Government may make."

"The point that I wish to emphasize is that it should not be told by the public that this measure is calculated to collect taxes for services which have hitherto been rendered by the Government. The villagers are paying taxes and others also are paying taxes. We have spent a few crores of rupees from public finances for the amenities and services in the villages. I do not know why the Hon. Minister should think of a portion of the land revenue as the amount to be paid to the villages. The real object should be to pay in full the expenses which the Government have been incurring so that the panchayats can discharge their responsibilities

[Dr. V. K. John] [16th February 1950]

in rendering the services which were formerly done by the Government. Suppose they have been spending Rs. 10 crores. Now when the panchayats are asked to take over the services, the portion of the land revenue would come to less than a crore. Probably the Government might have been spending Rs. 10 crores on education, sanitation, health services and a number of other such things which to-day the villagers are getting. I want an estimate of what the Government have been spending on these services which they now want to hand over to the panchayats. If they are spending Rs. 5 or Rs. 10 crores, now the panchayats should be given the same amount. If the panchayats want to collect more taxes, let them do it and introduce more amenities. We have 54,000 villages and we are going to have perhaps 20,000 panchayats. This 12½ per cent of the land revenue which the Government propose to give to these panchayats, as I said before, will work out to 50 lakhs of rupees. If this amount is distributed to the 20,000 panchayats, what will each panchayat get? Why should the Government now appropriate for other things the money which they were spending for these villages. The Government are collecting money from the villagers in many ways. After all, the villagers are paying very substantial taxes to the Government. Should they or should they not spend at least a substantial portion of this for their benefit. Therefore I say that the test is not 12½ per cent of the land revenue. The lands may be outside the village and there may be so many other things. The test is to make an estimate of the cost of the services rendered to the villages by the Government and to give that amount to the villages. Let them collect more if they want. This is the point of view from which the Government should look. There is confusion. I do not know why this land revenue and a portion of it should be thought of for being given to the panchayats. The contribution of the Government should be what they have been spending on these villages before. They have been spending a certain amount on these villages. Why not pay that amount which will certainly be more than half a crore of rupees, to these panchayats? Are you going to tell the public that for the benefit of these 57,000 villages they were spending only half a crore of rupees. I am sure that the amount that they might have been spending will be much more than that. I think the panchayats will have to take perhaps the whole of these services, education, public health, roads, etc., which were previously in charge of the Government. The Government want them to be effective self-governing institutions which can manage their own affairs efficiently. Then, why should not they give the panchayats the amount that they have been spending on them previously. This is the point of view which the Government ought to take into account. I know that this amendment is not going to be accepted and will be lost. At one stage we had decided not to move any amendments at all as we thought that the Government will not accept any. But, in spite of this sad experience of ours, it is in deference to your desire and as you directed us, or requested us that we should make this House more useful by bringing in amendments, that we have brought some amendments this time. If we had brought

16th February 1950] [Dr. V. K. John]

some amendments to give more power to the Government, then they will accept them. Otherwise they will not. Because, decisions on matters are made elsewhere and this House will have to carry out those decisions only. So we know that no useful purpose will be served in discussing any measure here. We know that our amendments will be lost. I think the public should understand that in the Legislatures, the majority party to-day are doing things in such a way that democracy is lost. Decisions are made elsewhere and measures are brought before the Legislature and passed by a majority. Let the public know—I hope the Press will not fail to publish this—that at the rate at which discussions take place and the manner in which suggestions are made and decisions are thrust on us, no useful purpose can be served by having this House. Eventually, I am afraid, the public will not take note of discussions here, as they will be convinced that in this House no serious matters are seriously discussed.”

3-45
p.m.

JANAB ABDUL LATIF FAROOKHI :—“ I second it.”

MR. CHAIRMAN :—“ The amendment is—

‘ For clause 71, substitute the following :—

“ 71. The Government shall make an estimate of the expenses incurred by the panchayat in rendering by the panchayat the services which the Government were rendering before the constitution of the panchayat and contribute the equivalent of such expenses to the funds of the panchayat in addition to any further contribution the Government may make.” ”

THE HON. SRI K. MADHAVA MENON :—“ Mr. Chairman, Sir, the Leader of the Opposition is certainly speaking to the public through the House. (Laughter.) According to the Opposition, it is only they that represent the views of the people and not the Government. To speak of Dr. John individually, he thinks that whatever he says is right and whatever the Government do is wrong”

DR. V. K. JOHN :—“ If I am not convinced how can I press my point of view? ”

THE HON. SRI K. MADHAVA MENON :—“ The amendment of Dr. John comes to this. The Government must give the panchayats such grants as would enable them to discharge the duties hitherto discharged by the Government in their place. If it is accepted, what would be the position? Suppose there are panchayats that spend a little. What would be the result in such a case if the amendment is accepted? The panchayats will be reimbursed only to that extent and there will be no funds for them to undertake the other works contemplated. I know that there are as many as four thousand villages which go without a school”

MR. CHAIRMAN :—“ There are villages to my knowledge which have no schools, no good roads, no sanitation and no wells even.”

[16th February 1950]

THE HON. SRI K. MADHAVA MENON :—“ Dr. John claims absolute wisdom in having moved this amendment. But what is the actual position now? Is it not better now than it would otherwise be if the amendment is accepted? I would even throw a challenge. Let the public be asked to state, let the rural population be asked to say which they would prefer . . . ”

DR. V. K. JOHN :—“ I do not say that it would suffice if the panchayats are reimbursed to the extent of the amount spent now in rendering the services hitherto rendered by the Government. My amendment clearly states ‘in addition to any further contribution the Government may make’.”

THE HON. SRI K. MADHAVA MENON :—“ According to the existing provision, it is not obligatory on the part of the Government to pay anything more than 12½ per cent of the total land revenue (including water-cess) of the Province.”

SRI S. B. ADITYAN :—“ Mr. Chairman, Sir, in opposing the amendment and supporting the original clause, I wish to draw the attention of the House to one aspect, namely, that the 12½ per cent of the land revenue—which works out to one crore of rupees nearly—is intended to be distributed on the basis of population. Some people do not properly realize the implication of this provision . . . ”

MR. CHAIRMAN :—“ How do you get the figure, one crore of rupees? ”

THE HON. SRI K. CHANDRAMOULI :—“ The land revenue, including water-cess, comes to about 8 crores and so this comes to one crore.”

SRI S. B. ADITYAN :—“ This one crore is going to be distributed not on any other consideration. Population alone has been made the guiding factor now, unlike in the original Bill wherein other cases were contemplated. Now, the Andhra areas, for example, contribute only 32 per cent of the total land revenue of the Province but they get back as much as 39 per cent in this case. In other words, every year the Andhras will get 7 per cent more from contributions from the non-Andhra areas and so it is not as though the non-Andhras were blind to this fact. The matter was discussed at the party meeting, in the Legislative Assembly and also in the Select Committee and no non-Andhra ever raised any protest . . . ”

DR. V. K. JOHN :—“ Sir, is the hon. Member in order in referring to the difference between the contributions made by the Andhra areas and the rest? ”

SRI S. B. ADITYAN :—“ Sir, I want to point out the implications of this distribution. I would like to inform the Leader of the Opposition . . . ”

MR. CHAIRMAN :—“ Is the hon. Member supporting or opposing the amendment? ”

16th February 1950]

SRI S. B. ADITYAN :—“ I oppose the amendment but support the original clause. It will be observed that distribution on the basis of population would mean more money going to the Andhras”

MR. CHAIRMAN :—“ How is it an argument for throwing out the amendment? ”

SRI S. B. ADITYAN :—“ You are allowing discussion on the general clauses of the Bill. So when I speak on this particular clause I want to explain how it came about”

MR. CHAIRMAN :—“ But how is it relevant here? ”

SRI S. B. ADITYAN :—“ I am pointing out to the House the good-will that prevailed among the Andhras and the non-Andhras when this provision was discussed previously and that only interested people are trying to create trouble.”

MR. CHAIRMAN :—“ I am unable to understand how this division of Andhra and non-Andhra is relevant either to the amendment or the clause. Clause 71 says that the State shall distribute 12½ per cent of the total land revenue (including water-cess) of the State among the panchayats on the basis of their respective population. This is the only point. If the hon. Member is supporting clause 71, I would very much like to know from him how this distinction between Andhras and non-Andhras is relevant.”

SRI S. B. ADITYAN :—“ The question of relevancy comes this way. What this clause envisages is a distribution on population basis and I am entitled to point out what it implies.”

MR. CHAIRMAN :—“ How is it relevant? If the hon. Member refers to the basis of population and advocates it as a sound one, other hon. Members may get up and say it is not, and there will not be that discussion which is relevant and necessary.”

SRI R. SURYANARAYANA RAO :—“ The Ceded districts are sparsely populated, Sir.”

SRI S. B. ADITYAN :—“ I am supporting the original clause and in supporting that I say that although it means 7 per cent more being given away to the Andhra areas”

MR. CHAIRMAN :—“ I do not want any distinction being made between the Andhras and the non-Andhras. We belong to the whole State.”

SRI S. B. ADITYAN :—“ Although this will mean some distinction. I must point out they will get more under the present arrangement.”

MR. CHAIRMAN :—“ Until the hon. Member raised this question in this House to-day, there has been no complaint about maldistribution or unequal distribution.”

[16th February 1950]

SRI S. B. ADITYAN :—" I think the best way is that of doing it on population basis and when I state that, am I not entitled to say that it benefits the people? "

MR. CHAIRMAN :—" But, why bring in Andhras and non-Andhras? "

SRI S. B. ADITYAN :—" Because we consist of Andhras and non-Andhras."

MR. CHAIRMAN :—" No. There are Malayalees and Kanadigas also."

DR. V. K. JOHN :—" We are all citizens of India."

MR. CHAIRMAN :—" Does the hon. Member mean to think that if the distribution is made on the basis of services rendered, the Andhras will receive much less than what they will get on the basis of population? "

SRI S. B. ADITYAN :—" It is very well known that they will get definitely less if it were based on the ' services rendered '."

MR. CHAIRMAN :—" However, I must take strong objection to references like Andhra and non-Andhra."

SRI S. B. ADITYAN :—" How can I help it, Sir? When the question of revenues derived from the Andhra and non-Andhra areas was asked here, you allowed a statement in that connexion to be placed on the table of the House. You could have objected to references like this then itself."

MR. CHAIRMAN :—" Simply because a question was put and that was allowed to be answered, should I allow such references on every occasion and on every subject? "

SRI S. B. ADITYAN :—" I do not say the question of Andhras and non-Andhras"

MR. CHAIRMAN :—" I would like the hon. Member to resume his seat."

4 p.m. * THE HON. SRI K. CHANDRAMOULI :—" Mr. Chairman, Sir, my Hon. Colleague, the Law Minister, has already replied to the amendment and I have nothing to say further. I would like, however, to inform Dr. John that this 12½ per cent is an additional thing which the Government propose to give to the panchayats. Whatever grants they are now making—for roads, sanitation, public health, etc.—will continue to be given to the panchayats and no pie will be reduced." If hon. Dr. John means that the Government should give more, if that is his intention, I can understand. But I can tell him, considering the financial position of the State, that we are able to go only to this extent at present. This is the barest minimum."

MR. CHAIRMAN :—" The question is—

' For clause 71 substitute the following :—

" 71. The Government shall make an estimate of the expenses incurred by the panchayat in rendering by the panchayat

16th February 1950] [Mr. Chairman]

the services which the Government were rendering before the constitution of the panchayat and contribute the equivalent of such expenses to the funds of the panchayat in addition to any further contribution the Government may make " ' "

The amendment was lost.

Clause 71 was then put and carried.

Clause 72 was put and carried.

SRI R. SURYANARAYANA RAO :—" There are no amendments up to clause 112. All the clauses may be put together and passed."

MR. CHAIRMAN :—" On a previous occasion, it was pointed out to me that that was not regular. As some Members might object to the entire clause itself, each clause should separately be put."

Clauses 73, 74, 75 and 76 were separately put and carried.

Clause 77.

SRI B. NARAYANASWAMI NAYUDU :—" I move—

' Delete the proviso to clause 77 (1). '

" This is really the important thing and this has led to many judicial findings and decrees in courts. So far as the distribution of water in the villages is concerned, the powers of the panchayat is cypher. This is the proviso, namely :—

' Provided that nothing contained in this sub-section shall apply to any work which is, or is connected with, a work of irrigation or to any adjacent land appertaining to any such work '.

" What is the real trouble in regard to the distribution of the water in the villages? Why should they depend on the Public Works Department and the other departments? Is this called village Raj? Is it not a question of regulating at the head sluice or anything of the kind? In the Krishna there are distribution channels. In some villages they want a tank in the top bund for letting the water down. Is this not a matter for the villagers to regulate, I ask? The entire village elects its representatives and want to enter into certain arrangements regarding distribution of water. Are you to say ' no ' to it? Is it the Public Works Department or the Engineers or the Overseers or the staff who are to be in charge of these? In the upland areas and central districts we have got lakes and water reservoirs. Regulation of water from these leads to conflict. Why should the management be given over to the Public Works Department? Why deprive the panchayats of their natural right? The Government have the executive officers and other things. The panchayats have the power to levy taxes. Why not also give them power in respect of irrigation sources also? "

* THE HON. SRI K. CHANDRAMOULI :—" Sir, this clause deals with public water-courses, springs, etc. There is no objection in respect of all public water-courses, springs, reservoirs,

[Sri K. Chandramouli] [16th February 1950]

tanks, cisterns, fountains, wells, stand-pipes and other water-works. The point raised by the hon. Member Sri Narayanaswami Nayudu is in respect of irrigation work. No channel passes through one village only, but passes through many villages and in the matter of distribution of water and other technical details, you cannot override the Irrigation department. So far as small irrigation sources are concerned, the powers are already there. We do not say we are giving more powers and all the powers and are making the panchayats self-contained. Only an attempt has been made to give more authority to the panchayats."

MR. CHAIRMAN :—" This clause applies only to water-sources and other than those used for irrigation purposes."

THE HON. SRI K. CHANDRAMOULI :—" It applies to both minor and major projects."

MR. CHAIRMAN :—" The question is—

' Delete the proviso to clause 77 (1). '

The amendment was lost.

Clause 77 was put and carried.

Clauses 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110 and 111 were separately put and carried.

Clause 112.

DR. V. K. JOHN :—" I move—

' Omit clause 112. '

" This clause says that the Government shall, in addition to the rule-making powers conferred on them by any other provisions contained in this Act, have powers to make rules generally to carry out the purposes of this Act. Under clause 114 the panchayat has been given power to make bye-laws to carry out the purposes of the Act. As it is proposed that the panchayats should be self-governing units, I propose that this clause should be omitted. The panchayat may prevail for purposes of carrying out the Act.

" Similarly in clause 114 I want that the words ' with the approval of the Inspector ' should be omitted. I do not want to make any speech on these as the two clauses are connected. Now I do not want to take away the powers which the Government have to prescribe by rules under various clauses of the Act. Let them have it. Let them have the general rule-making powers only and let the self-governing units have their own powers."

SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

* THE HON. SRI K. CHANDRAMOULI :—" It is general for all legislation. It does not mean that we are overriding the general principles of legislation. Unless the rule-making power is there, you cannot carry on and put into operation effectively any Act. I am sorry, I cannot accept hon. Dr. John's amendment."

16th February 1950]

MR. CHAIRMAN :—" The question is—

' Omit clause 112.' "

The amendment was lost.

Then clause 112 was put and carried.

Clause 113 was put and carried.

Clause 114.

DR. V. K. JOHN :—" I move my amendment to clause 114 without a speech—

' In sub-clause (1) omit the words " with the approval of the Inspector "' "

* SRI M. D. T. KUMARASWAMI MUDALIYAR :—" I second the amendment."

MR. CHAIRMAN :—" The question is—

' In sub-clause (1) omit the words " with the approval of the Inspector "' "

The amendment was lost.

Then clause 114 was put and carried.

Clauses 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134 and 135 were separately put and carried. 4-15 P.M.

Clause 136.

DR. V. K. JOHN :—" Clause 136 says that the Madras Local Boards Act, 1920, shall be amended in the manner set forth in Schedule IV. The Schedule is almost as long as this Bill and contains references to 122 sections of the Local Boards Act. They are all amended *en masse* by this clause 136. I move the following amendment :—

' Omit clause 136 and Schedule IV and substitute the following therefor :—

" If any provision of this Act is repugnant to any provision of the Madras Local Boards Act, 1920, the former shall prevail "'

After all, Sir, I do not know whether anybody has examined all the 122 sections of the Local Boards Act carefully. But it is not a correct way of amending an Act. A separate amending Bill should be brought forward. I say this only to assist the Government. Let them have a small clause like the one I have just now suggested. It will achieve the object of the Government. To amend 122 sections of the Local Boards Act by a clause in this Bill is not the proper way of doing the thing. I do not say it is illegal. When I referred to this point in another connexion, the Hon. Mr. Madhava Menon brought up some Act in England where a schedule was put in containing amendments to another Act. I have not examined the matter further. I do not say it is

[Dr. V. K. John] [16th February 1950]

illegal. We have got two local bodies Acts, the Panchayat Act and the Local Boards Act. Why not say clearly that we want to make the provisions of the Panchayat Act prevail here, so that the courts may be guided and everybody else may be guided? Why not we follow the procedure adopted in the Constitution of India? They have simply said in Article 13 (1)—

‘13 (1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.’

Instead of putting in a schedule about 200 to 300 Acts of the Centre and the Provinces, they have simply said that the provisions in the new Constitution will override all other laws. We can also follow that and say that if there is anything inconsistent in the Local Boards Act with the provisions of this Act, then this will prevail.”

MR. CHAIRMAN :—“ The Government have taken the trouble to enumerate the whole thing.”

DR. V. K. JOHN :—“ That they have done, Sir. But it is difficult to examine the whole thing. We do not know whether something else in the Local Boards Act is not inconsistent with this Act. It is a very long Act. We have 138 clauses in this Bill and the Schedule refers to 122 sections of the Local Boards Act. It might not be strictly illegal to adopt this procedure. But the object of the Government is, that whatever is inconsistent in the Local Boards Act with this Act, not only the 122 sections referred to but anything else also, to that extent it should be void. I am suggesting my amendment in all fairness for the Government to accept.”

MR. CHAIRMAN :—“ Is it in addition to the schedule? ”

DR. V. K. JOHN :—“ No, the schedule will go.”

MR. CHAIRMAN :—“ The Government have taken the trouble to enumerate all these things in the schedule.”

DR. V. K. JOHN :—“ It does not require a schedule. If clause 136 is omitted, the schedule also goes away. My amendment only says that whatever is repugnant in the other Act, will be void to the extent of that repugnancy.”

MR. CHAIRMAN :—“ After all we must consider who is going to administer the Local Boards Act and the Panchayat Act. The villagers are mostly going to administer the Act. Therefore it is better to be very precise instead of going in for legal opinion every time. My experience about the matter is this. I said that a certain rule (regarding resolution) was repugnant to the Government of India Act. The Legal Department said that it was not. Why do you want such a thing to be repeated there in the local boards? ”

DR. V. K. JOHN :—“ I am only saying what the proper legislative procedure should be.”

16th February 1950]

MR. CHAIRMAN :—" I entirely agree that an amending Bill for the other Act might have been the proper thing and would have been better. There is no doubt about that. But now that the Government have taken so much trouble to enumerate all these I think it will help the administration of the local boards to have such a schedule."

DR. V. K. JOHN :—" What about Article 13 of the Constitution of India? After all something which is comprehensive must come in. I only stress on the comprehensiveness of my amendment. There may be something else not mentioned in the schedule which may be inconsistent. My amendment is more effective and more clear. To find out what is repugnant is not so difficult. I take some honest pride that I have some knowledge of drafting and I think it is better to make the thing clear, comprehensive and effective. My small amendment will take away the schedule and make the thing more effective than clause 136. I do not see any objection to the Government accepting it. After all this Bill is going to the other House."

* SRI R. SURYANARAYANA RAO :—" With regard to the suggestion of the hon. Dr. John, I think, Mr. Chairman, you are right when you said that it would have been far better for the Government to have brought forward a separate amending Bill for the other Act. I remember during the Advisors' regime they brought forward two Bills separately, a Panchayat Bill as well as a Local Boards Amending Bill, and passed two Acts, a Panchayat Act as well as a Local Boards Amendment Act. That would have been far better. It would have given the Legislature an opportunity to see whether all the required amendments have been carried out in the Local Boards Act. Now, most of us do not look into the schedules. Perhaps, my hon. friend wants, as a measure of abundant caution, to have a clause to the effect that if further any of the provisions of this Act is repugnant to any provision in the Local Boards Act, the former shall prevail."

MR. CHAIRMAN :—" Is it in addition to clause 136? "

* SRI R. SURYANARAYANA RAO :—" We are not sure whether all the necessary amendments have been carried out in the schedule. As a measure of abundant caution, such a provision seems to be necessary."

MR. CHAIRMAN :—" What you are suggesting is that clause 136 may stand as it is. The other clause may be added as a measure of abundant caution."

DR. V. K. JOHN :—" I do not agree with that, Sir."

* SRI R. SURYANARAYANA RAO :—" It will be good for the Government as well as for everybody concerned to have it like that."

* THE HON. SRI K. CHANDRAMOULI :—" Sir, I will make one point clear. No doubt Dr. John's amendment wants to make

[Sri K. Chandramouli] [16th February 1950]

it very comprehensive. We want to make it as elaborate as possible and see that no complications set in. As far as the principle is concerned, there should be no conflict. On that point I am one with Dr. John. The one idea that is animating us in this matter is to see that the Panchayat Act is a separate Act and has nothing to do with the Local Boards Act. That is the idea. It should be separate. During the transitional period, there are certain villages where there are no panchayats and where the district board will have certain functions. I only promise this much to Dr. John. I will again examine this point quite clearly and if there is anything else which is repugnant, I will bring an amendment in the Assembly and bring it back here again. There are some difficulties in the transitory period and we have to carry on. It is not the intention of the Government or anybody to nullify the provisions of this Act. As matters stand, I can only promise this much that I will examine the matter again. I cannot accept the amendment."

DR. V. K. JOHN :—" Anyhow the Bill is going to the other House."

MR. CHAIRMAN :—" The Hon. Minister may be given some time to examine the matter."

THE HON. SRI K. CHANDRAMOULI :—" I will examine the matter and if necessary, I will bring up amendments in the Assembly."

MR. CHAIRMAN :—" The wording of your amendment, Dr. John, is the other way. It says, ' If any provision of this Act is repugnant to any provision of the Madras Local Boards Act, 1920, the former shall prevail.' I think it should be ' If any provision of the Madras Local Boards Act is repugnant to any provision in this Act, then the latter shall prevail.'"

THE HON. SRI K. MADHAVA MENON :—" Mr. Suryanarayana Rao wants that there should be a separate amendment of the Local Boards Act and that this clause should be deleted. Dr. John wants to have an omnibus section in this Act. That will create difficulties. Every officer who has to work the Act will have to be examining whether any section here is repugnant to any section there or not. There will be no lawyer or legal department to advise him. It is better that definite instructions are given to them."

MR. CHAIRMAN :—" That was my experience also about the rules. I said they were repugnant. But the Legal Department said they were not repugnant. The question is—

' Omit clause 136 and Schedule IV and substitute the following therefor :—

" If any provision of this Act is repugnant to any provision of the Madras Local Boards Act, 1920, the former shall prevail ". ' "

The amendment was lost.

Clause 136 was put and carried. Clauses 137 and 138 and Schedules I and II were put separately and carried.

16th February 1950]

Schedule III.

MR. CHAIRMAN :—“ There is an amendment standing in the name of Sri M. D. Kumaraswami Mudaliar to this Schedule. May I know whether the hon. Member is going to move it? ” 4-30 p.m.

SRI M. D. T. KUMARASWAMI MUDALIAR :—“ I do not propose to move my amendment, Sir, because the purpose of my amendment is the same as that of the Government amendment to be moved by the Hon. Minister. I am therefore withdrawing it, Sir.”

* THE HON. SRI K. CHANDRAMOULI :—“ Mr. Chairman, Sir, I move—

‘ In rule 12 of Schedule III to the said Bill, for the words “ Any tax ”, substitute the words “ Any tax, cess or fee ”.’

“ Sir, the object of this amendment is to make clear the meaning of the word ‘ tax ’ used in this rule, because it is our intention to include also any cess or fee for being continued.”

The amendment was put and carried.

Schedule III as amended was put and carried.

Schedule IV was put and carried.

Clause 1.

* THE HON. SRI K. CHANDRAMOULI :—“ Mr. Chairman, Sir, this is a general amendment which I want to move not only to this clause but also to the whole Bill, because that is applicable to the entire Bill. I was about to move it at the beginning, but then it was somehow passed over. Now I move, Sir, that—

‘ In the Madras Village Panchayats Bill, 1949, including the Schedules thereto, for the word in the first column of the table below, substitute the word in the corresponding entry in the second column thereof :—

Table.

(1)	(2)
Province.	State
Provincial.	State.’

Sir, this is only a verbal amendment to suit the wording of the New Constitution.”

DR. V. K. JOHN :—“ Is it in order, Sir, now to move this amendment after the whole Bill has been passed? I leave it to you, Sir. It should have been moved first. Anyhow, let us take it as having been moved first. I do not want to embarrass the Government by raising this objection at this stage. In fact, actually the Hon. Minister moved it at the time of the first clause.”

[16th February 1950]

MR. CHAIRMAN :—" The question is, that—

' In the Madras Village Panchayats Bill, 1949, including the Schedules thereto, for the word in the first column of the table below, *substitute* the word in the corresponding entry in the second column thereof :—

Table.

(1)
Province.
Provincial.

(2)
State
State.' "

The amendment was carried.

Clause 1 as amended was put and carried.

Preamble.

* THE HON. SRI K. CHANDRAMOULI :—" I move, Sir—
' that the Preamble may form part of the Bill.' "

DR. V. K. JOHN :—" Mr. Chairman, Sir, I beg to move the following amendments to the Preamble to this Bill :—

' Omit the following words in the preamble :—

" Whereas it is expedient to make better provision in a separate enactment for the administration of village affairs by the panchayats; "

In the alternative.

' For the words in the preamble—

" Whereas it is expedient to make better provision in a separate enactment for the administration of village affairs by panchayats; "

' Substitute the following words :—

" Whereas it is expedient for the purpose hereinafter appearing; "

" Sir, the object of the amendment is this. The Centre have now made it a rule that there need not be long preambles to any future legislation and they have said that it would be enough if the preamble is worded like this, " Whereas it is expedient for the purposes hereinafter appearing, it is hereby enacted as follows ". Why not let us also follow the same procedure. I mention this because courts of law have found it difficult sometimes to construe the real implication or meaning of certain provisions of some Bills, if they are not clear and then they go to the preamble and most of the preambles are so all-embracing and so vague, that they land us in difficulties and doubts. If there is no preamble altogether, then the intention as put down in the clauses themselves would be sufficient and we can get along with them. If the sections are clear, the preamble is not at all looked into, and therefore I think it is better to make the preamble as simple as possible, so as not to land us in doubts. This is also the suggestion of the Centre. Why not we follow that example or set an example ourselves in the matter?

16th February 1950]

[Dr. V. K. John]

Of course, in this Preamble, I quite realize there is nothing very complicated and therefore I do not want to make any special remarks. But my observation applies to preambles in general, which may be of a complicated nature. I would not have sent down these amendments, but I thought that it would be more simple, if either of them is adopted. If you adopt my alternative amendment, which I would like to move, in particular, the preamble will read like this :—

‘Whereas it is expedient for the purposes hereinafter appearing : it is hereby enacted as follows.’

The purpose is to constitute village panchayats in all villages throughout the State.”

MR. CHAIRMAN :—“ I do not know whether the amendment is grammatically correct; however, let me hear what the Hon. Minister has to say about it.”

* THE HON. SRI K. CHANDRAMOULI :—“ Sir, I quite realize the object of the Hon. Leader of the Opposition, namely, that the Preamble should be clear and should be as short and as simple as possible. We do not know what exactly the Centre have said about this and we are not quite clear about what they are going to do in their future legislation. We have only seen their suggestion in papers. But until then let us stick to our own procedure and let us adopt for the present the wording of the preamble in this Bill, as such. We shall look into their wording of the preambles in the Central Acts which they are going to enact hereafter, and if theirs is better, we shall certainly adopt them for future legislation. Let us be content with the present Preamble as such, which is simple and clear enough.”

MR. CHAIRMAN :—“ The Hon. Leader of the Opposition is apparently not pressing his amendment.”

The amendment was, by leave of the House, withdrawn.

The Preamble was put and carried.

THE HON. SRI K. CHANDRAMOULI :—“ I move, Sir—

‘that the Bill, as amended, be passed into law.’ ”

* DR. V. K. JOHN :—“ Mr. Chairman, Sir, I must confess that I am not happy over the Bill as a whole, as it has been enacted. It is not our intention that we, as an opposition, should oppose, for the sake of opposition, everything that is brought forward by the Government or to discredit them in any way. I am not a believer in the dictum that the duty of the opposition is to oppose anything and everything. I have opposed this Bill on two occasions, once when the motion was made to refer it to a Joint Select Committee and again at the time of the general discussion of the Bill. I then complimented the Hon. Minister in charge of the Bill Mr. Chandramouli on his good intentions.”

MR. CHAIRMAN :—“ I for one would never admit that the Hon. Leader of the Opposition is a believer in the dictum that the duty of the Opposition is merely to oppose.”

[16th February 1950]

* DR. V. K. JOHN :—“ What I want to make clear, Sir, is that the village panchayats that you are going to bring into existence should be real units of self-government as envisaged in Article 40 of the Constitution Act of India, because we know and we have expressed it again and again on the floor of the Legislature, that from time immemorial, the system of administration of our villages had been through village panchayats, because that is the genius of our people and now we are only going to bring about that ancient system, which had been, for some reason or other, kept in abeyance during a century and a half, after the advent of British Rule, and we want to make these village panchayats real and true village republics and to see that they do useful service to the inhabitants in the panchayat area. This is a very important reform for which we have been agitating and which we want to be ushered in, immediately on the advent of our New Constitution. But now in this Bill, I find that the Government are going to appoint executive officers who are Government servants and to compel the village panchayats to tax the people in order to pay them their salaries and the panchayats are not even given the option in the matter of taxation. There is little of self-government, that I can find, within the four corners of this Bill. Now that we are on the third reading stage of the Bill, I must make these observations. I have great hopes that the Hon. Minister for Local Administration who has himself very great experience in the administration of district boards and local bodies and other self-governing institutions will see that he converts these panchayat boards into real and actual units of local self-government in the villages. If he will permit me, I shall make one suggestion as to how this could be done. Please do not appoint these executive officers yourself over these panchayats, as far as possible. Let the President of the panchayat, according to this Bill, be the executive authority, even where there are executive officers.”

MR. CHAIRMAN :—“ I do not think the Hon. Minister requires any exhortation from the hon. Leader of the Opposition. He tried to do so in the case of the Corporation of Madras.”

* DR. V. K. JOHN :—“ Because I know his intention is good, Sir, I am making this suggestion. Clause 28 (1) of the Bill says that a whole-time executive officer shall be appointed by the Government in any panchayat which may be notified by them in this behalf. If the Government do not notify any panchayat, they can see that almost every panchayat has only the President as its executive officer. Then, Sir, it will be like the American constitution, where the President is the executive authority elected for a term of so many years. The object is that there should be leadership in the President during his term of office. We want that the President of our panchayat board should be a miniature President of the American Republic, so far as his village is concerned, and all executive authority should vest in him. Now we are having a Minister for Local Administration, a Minister for Education, a separate Minister for Public Health, another Minister for Cottage Industries and another Minister to be in charge of Food

16th February 1950]

[Dr. V. K. John]

Production and so on. But now we want that the President of the village panchayat should be at the head of administration in the village and he should have full executive authority over all these matters, even as the American President has in that great country.

“ Sir, another point that I wish to suggest to the Hon. Minister is this. I took very serious objection to the compulsory levy of certain taxes provided for in this Bill. Now I submit that it does not matter at all, if only the minimum of these taxes is collected. Take for instance the house tax. We have put it at 18 per cent in the City of Madras, and the Corporation of Madras could very well raise it to 20 per cent or more if it wants. If the Corporation does not want to have any such tax at all, it could very well reduce it to 1 per cent and thus make it a nominal tax. Similarly, in the case of these village panchayats, even if you have it as a compulsory tax, you can nullify the effect of this provision, if you accept my suggestion, namely, to fix it at a nominal rate, so that there will be no difficulty for even the poor people in the villages to pay. But if the tax is made optional, then I have no objection to its being levied at its maximum.

“ Then, Sir, take the appointment of executive officers. After all a constitution grows by convention. The Act has given us only the bones and the nerves and the life. It is we who must fill it up with blood and flesh and put in the necessary vigour and energy. Now I suggest to the Hon. Minister in charge of this Bill to create a convention not to appoint executive officers to these panchayats or fix their remuneration without the consent of the concerned panchayat. The section does not say that the panchayat should not be consulted. The Government can make the panchayat a really self-governing institution by not enforcing in a very strict manner all the provisions contained in this Bill, and by creating a convention of consulting the panchayat in all matters relating to its administration. Whenever an executive officer is found to be necessary to be put in charge of a panchayat, just consult the President of panchayat and appoint the executive officer on the recommendation of the panchayat board. You can thus make the panchayat a really self-governing and a respectable body by creating conventions of this sort. Take the constitution of Great Britain. There the King is actually a constitutional head but he has no power of veto in practice although in law he has that power. Similarly, the Government can make the President of the panchayat the virtual executive head of the village and through him the Government can do whatever they like, without in any way encroaching or interfering with his powers and authority. At the same time, let the Government see that they do not appoint executive officers who are not interested in the village panchayats, but appoint only those who could do really good work in the villages. I am sure, Sir, that even this Bill which I have opposed very vigorously with respect to certain provisions contained in it, can be made a useful instrument of self-government, if the suggestions I have made just now are adopted in practice. I appeal to the Government and I appeal to the Hon. Minister in charge of this measure, in whom I have great hopes, to see that these village panchayats are made real Indian village republics.

[Dr. V. K. John] [16th February 1950]

This is a very important piece of legislation affecting nearly 54,000 villages in this State, and it is our object that the spirit of Article 40 of the Constitution of India should be observed in practice. Let not the Hon. Minister say that the Leader of the Opposition has no concern in this measure. Both the Government and the Opposition are equally concerned in this legislation and we are equally responsible for having enacted it into law and we will equally be blamed if it proves an engine of oppression. The Government no doubt are sincere in their intentions and I have never said that they are insincere. But whenever they go wrong, it is the duty of the Opposition to give constructive suggestions and offer constructive criticism, wherever criticism is necessary. I therefore express my sincere hope that this Bill which is now going to be enacted into law will be so administered as not to interfere with the autonomy and self-government of the village panchayats and that Article 40 of the Constitution will be truly observed both in letter and in spirit.

4-45
p.m.

"If this Bill is to be enforced in the way the Local Boards Act and the District Municipalities Act were administered by the the foreigners in this country, then this is not giving any measure of self-Government to the people but will become an engine of oppression and an instrument of oppression and not as the Government and the Hon. Minister are anxious to be worked in terms of Article 40 of the Constitution, implementing that Article and reviving the village panchayats in the rural areas."

* THE HON. SRI K. CHANDRAMOULI :—" Mr. Chairman, Sir, I am glad that Dr. John has provoked very good thought on either side of the House and I am happy the expressions uttered by him will receive full approval not only here but also by the public. Dr. John and I are agreed on one point and that is that the voice of the people must prevail and the good of the people should prevail. Very fine sentiments have been expressed by Dr. John about the appointment of executive officers and about taxation measures. I have not, as a matter of fact, hidden from this House or the other House but have on the contrary made it clear that it is not the intention of the Government to go on appointing executive officers; rather it is the intention of the Government to see as far as possible that executive officers are eliminated and also as far as taxation is concerned, to see that oppressive things are not used. I can assure Dr. John that practically everything will be done by them and nothing will be imposed upon them. As far as idealism is concerned, we are both one but when it comes to practicalities, it is difficult and that is why there may be in the Bill some provision which for appearance is inconsistent with it or looks like interference, too much interference or too much check. No Government and no organization, even an ordinary organization can be run for a minute without its members conforming to certain rules; they should make certain rules and regulations and they should observe discipline. This is made with the best of intentions and even if we have such checks, they are there with the best of motives, not with a view to interfere but with a view to see that they are

16th February 1950]

[Sri K. Chandramouli]

administered properly. I can say one thing; it all depends upon the people who work it. I once more assure the House and also Dr. John that that is the intention; I am thankful to him for his fine sentiments and I am glad that at least now he has correctly understood the intention of the Government. I thank hon. Members of the House for their patience in enabling me to pass the Bill into law and I must also thank you, Sir, for taking so much interest in every clause and expounding and explaining it to us for the benefit of both sides of the House and for taking a keen interest in the Panchayat Bill. I must not fail to thank the press as they have given support to the Bill even by way of their criticisms. I must thank the Local Administration Department, the Legal Department and our Secretaries and others who have taken much trouble in shaping this Bill. I request the House to pass the Bill into law."

MR. CHAIRMAN :—" The question is that the Madras Village Panchayats Bill, 1949, as amended, be passed into law."

The motion was carried and the Bill was passed into law.

MR. CHAIRMAN :—" Hon. Members will excuse me if I say a few words now. I am extremely pleased at the attitude taken by the Leader of the Opposition and the Opposition as a whole about this Bill. The Leader of the Opposition knows that I requested his co-operation with the Hon. Minister in seeing that the Bill is finished before lunch time to-day, the reason being not because we were not anxious to sit here and work the whole day but because it is a great strain upon our reporting staff when both the Houses of Legislature are sitting simultaneously and I did not also want to keep hon. Members unnecessarily waiting—they came on the 11th and are still here and not much work has been done and so I wanted to send them away as quickly as possible and I promised the reporters that I will let them off at lunch. That is why I wanted to see if we could finish the Bill before lunch; but seeing what amount of interest was being taken by the Opposition and what valuable contributions were made by them in the course of the discussion of the various provisions of the Bill, I did not want to hustle matters and I instructed the reporters to carry on till the end of the day and they readily took up their work. I am glad that the Bill has after all been passed into law with so much of goodwill on both sides. I would like to say that this is exactly what I would like to see for every Bill that comes before the House. I would like to tell the hon. Leader of the Opposition that he has not so much to look at the results as to the performance of the duty of the Opposition as a whole. He must do it truly and properly and leave the result to the good sense of the House. I have no doubt that if the suggestions made by way of amendments are good, and not only the Hon. Ministers but hon. Members on that side, will bring to bear so much pressure upon the Government that such suggestions will have a fair chance of being accepted by the Government. It is no doubt true that not only here but elsewhere in all the legislatures in the whole country there seems to be a sense of frustration on the part

[Mr. Chairman] [16th February 1950]

of the Opposition because they are not able to influence the course of legislation by means of the suggestions they make; it is not their fault or the fault of anybody. The reason is that the only properly organized political organization in this country is now in charge of the administration and that organization has within itself almost all the important elements which have any appreciable share in the political life of the country so much so we are not able to have a properly organized Opposition in any of the Legislatures in the country. I was, as a matter of fact, told in Delhi a few days back that they have no leader of the Opposition even. Some of the members function as the Opposition. They make some suggestions and they feel they are functioning as the Opposition. Even there as here, there is this frustration and the question arises what is the duty of the Opposition; are they to keep out of the House or are they to remain in the House and perform their duty? This has been a matter which has been exercising my serious and anxious thought because I have found a tendency on the part of the Opposition to feel: What is the good of being here; however well intentioned our suggestions might be, they are not accepted by the Government; therefore, we will go out and we do not want to take any further part in what is going on in the House. In my humble opinion, I feel this is not the proper attitude to be taken by them because the Opposition is functioning in the House not for the sake of trying to see that something is accepted by the Government; but they are addressing a very large and a wider audience outside through their submission to the House; they are addressing the whole country through this House and it is left to the country to decide whether what they say is correct or the stand taken by the Government is correct and the ultimate judgment must come from the people when the proper occasion comes. The suggestions made by you might be accepted by the Government or they may not be accepted by the Government but they are before the country and the country knows how to assess the work done by the Government. Another point that strikes me is this: Times have changed; it is not like the good old days when we were trying as much as we could to show to the people the nature of the Government, which was unresponsive and irremovable and the Opposition had no chance of taking over the reins of office from them; but now such a power is wielded by the Opposition but not so in the old days as whatever they might do, it was not open to them to wrest power from the hands of the then Government. Such a thing not being possible then, it might have been justified or possible for them when they said: The bureaucratic Government is irresponsible and unresponsive and is not taking the public into confidence and so we will walk out. As I said, it was a kind of education to the public and of bringing home to them the nature of the Government and how they were trying to bring about a change. But now the position has changed; it is open to the Opposition to change the Government and themselves take the power. I do not see any reason why, if their arguments are so good and their suggestions are acceptable, members on this side should not walk over and strengthen their hands and defeat the Government. That is a

16th February 1950] [Mr. Chairman]

very valuable power in your hands and it depends upon you to wield that power to see that what is a majority party to-day is converted into a minority. You have two advantages: You have got the public to judge you and you have got this valuable right of converting the majority into a minority and yourself stepping into office. Such being the case, I do not think that it is proper for the Opposition to say that because their viewpoints had not been accepted, they would walk out. Honestly speaking and without any disparagement to anybody, I think it is a dereliction of duty on the part of any member of the House to say so. My point is, if you feel you are so useless I should think the only course open is to resign saying: I have done according to my lights; if anybody else could do better, I will yield my place to him. It is not for him to remain and say: I will remain but still not do my duty. I can best illustrate the position by making myself an example. By your choice, I am here; I am a human being; I have my own views and my own point of view about the various measures brought before the House. Supposing I do not like this Bill and the provisions offend against my ideas of what is good for the villages, can I say: I shall get out; you carry on. If I cannot say so, I do not think any other member can say so. I only say what is the proper attitude of any hon. Member of the House to take and I do not want the hon. the Leader of the Opposition or any other member to strain his loyalty to me. Let them not say: I had no mind to participate or co-operate in the passage of a Bill, but I had to do it out of respect to your views. Whatever they do, it is their own responsibility; let them not say: Because you wanted us to be here we are remaining here. I hope it is their sense of duty that will make them remain to carry on their duties which they had so willingly taken and perform them according to the oaths recently taken by them.

"I very much appreciate the attitude taken by the Opposition to-day and I hope they will continue to give the same kind of co-operation. Let them also realize that Opposition also is co-operation. I hope there will not be any other opportunity for such kind of attitude being taken by the Opposition. Thank you very much."

II.—SWEARING-IN OF A MEMBER.

Janab K. T. M. Ahamad Ibrahim was sworn in.

The Council adjourned till 2-30 p.m. on the 27th of February 1950.

